

CAYMAN ISLANDS



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**A BILL FOR A LAW TO PROVIDE FOR THE ESTABLISHMENT OF
THE DEPARTMENT OF THE WORKFORCE OPPORTUNITIES AND
RESIDENCY CAYMAN; TO REPEAL THE IMMIGRATION LAW (2015
REVISION); AND FOR INCIDENTAL AND CONNECTED PURPOSES**

THE IMMIGRATION (TRANSITION) BILL, 2018

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to give effect to part of the Government's policy to sponsor and oversee the implementation of two organisational change programmes, namely -

- (1) the establishment of Workforce Opportunities and Residency Cayman (WORC), and
- (2) the establishment of the Customs and Border Control Service (CBC).

Government's plans call for both departments to become officially operational on 1st January, 2019.

This Bill will establish the Workforce Opportunities and Residency Cayman Department (WORC) which will take over some of the functions of the Immigration Department. It is proposed to improve efficiency in the administration of work permits, permanent residence and the grant of Caymanian status.

Some of the key legislative changes in the Bill are -

- All work permits will be administered in the same way and will be called work permits, and, where necessary, a permit will be issued for periods shorter than a year (with pro-rated fees for the first year). Regulations will provide for the different types of work permits and for all procedures, terms and conditions relating to such work permits.
- The proscription on persons applying for Permanent Residence where they have resided in the Islands for more than 9 years will be removed.
- Legislative changes will allow persons applying for or holding a 25-year Permanent Residence facility, that is-
 - (1) Certificate of Permanent Residence for Persons of Independent Means;
 - (2) Residency Certificate for Persons of Independent Means;
 - (3) Certificate of Direct Investment, or Residence Certificate (Substantial Business Presence),
to demonstrate compliance with prescribed financial standing requirements through submission of prescribed Declarations issued by financial institutions and financial professionals that meet prescribed license and qualification criteria. The legislative change will remove such financial standing assessments as a function of WORC (currently a function of the Chief Immigration Officer and Work Permit Board).
- The criteria for the grant of a Residency Certificate (Substantial Business Presence) will be revised to reduce the risk of adverse impact

on career advancement opportunities for Caymanians in the financial services industry.

- The provisions relating to the right to be Caymanian will be amended to create the ability for a Permanent Resident who is a British Overseas Territories Citizen (BOTC) by virtue of a connection with another Overseas Territory to apply for the right to be Caymanian on grounds of residence (15 years). Under existing legislation, such persons are blocked from applying for the grant of the right to be Caymanian as they are ineligible to be naturalised in the Cayman Islands.

Under the Bill the Department of WORC is continued as it has already been established administratively. The functions duties and the processes of the Department are set out in the legislation.

The Bill provides that WORC will have some of the same functions and duties of the Immigration Department. The exceptions are those relating to the entry and landing of persons, asylum and deportation. These are functions which will be transferred to the Customs and Border Control Service.

An addition to the duties of WORC will be responsibility for the training and development of Caymanians and of prescribed persons for the labour force. Clause 9 of the Bill provides that the functions and duties of WORC include the following in relation to the employment of Caymanians and prescribed persons -

- (a) to promote and facilitate employment and re-employment in the Islands through services and facilities that help Caymanians and prescribed persons of the Islands find and keep jobs;
- (b) to collaborate with and support employers, relevant representatives of commerce or industry and public sector agencies in the Islands -
 - (i) to identify and promote the enhancement of industry specific skills;
 - (ii) to enhance the employability of individuals; and
 - (iii) to increase workforce productivity and improve the international competitiveness of commerce and industry;
- (c) to promote and facilitate productive employment and employee career development, including through review and reallocation of job duties and tasks among employees (commonly called job redesign);
- (d) to promote and facilitate the adoption of best practices in the management of human capital in the Islands;
- (e) to advise and make recommendations to the Government on policies, measures and laws connected with WORC's functions under this Law or any other written law;

- (f) to encourage, promote and facilitate the development of the human resources industry in the Islands;
- (g) to promote or undertake research in the Islands into matters relating to workforce of the Islands;
- (h) to undertake, direct and support the analysis and dissemination of labour market information and trends to the public; and
- (i) to represent the Government internationally in respect of matters relating to workforce development and public employment services.

The Bill is entitled a transition Bill as the full duties and functions of WORC are still being developed. The Boards i.e, the Work Permit Board; the Caymanian Status and Permanent Residency Board; the Business Staffing Plan Board, the Cayman Brac and Little Cayman Immigration Board and the Immigration Appeals Tribunal will continue to function until further changes are made to the legislation.

Clause 83 provides for the repeal of the Immigration Law (2015 Revision) and transitional provisions. Subclause 2 provides that section 25 of the Interpretation Law (1995 Revision) applies for the purposes of the repeal of the Immigration Law (2015 Revision) and in respect of savings and other transitional matters dealt with by that Law.

Subclause (3) provides that until regulations are made under this legislation to provide for a matter that may be prescribed, the regulations made under the Immigration Law (2015 Revision) including those which relate to Parts VI, VII, VIII of the Immigration Law (2015 Revision) that are in force immediately before the commencement of this legislation or the repeal of that Law shall have effect until expressly repealed by this legislation or by regulations made under this this legislation.

Subclause (4) provides that, for the avoidance of doubt, where any permit or certificate issued under the Immigration Law (2015 Revision) or under any prior immigration law is in force on the date of the commencement of this legislation, that permit or certificate shall continue in force until its expiration in accordance with the relevant law.

Subclause (5) provides that where before the date of the commencement of this legislation an application is made in respect of a Business Visitor's permit, a temporary work permit or a term limit exemption permit and the application has not been determined on the date of commencement of legislation, the application shall be determined as if this legislation had not come into force;

Clause 85 saves the appointments of officers of WORC where those appointments are made before the commencement of this legislation.

THE IMMIGRATION (TRANSITION) BILL, 2018

ARRANGEMENT OF CLAUSES

PART 1 - PRELIMINARY

1. Short title and commencement
2. Interpretation

**PART 2 - THE WORKFORCE, OPPORTUNITIES AND RESIDENCE
CAYMAN DEPARTMENT**

3. Functions and duties of WORC
4. Powers of WORC
5. Directions by Cabinet
6. Appointment of Director of WORC
7. Duties of Director of WORC
8. Officers of WORC

PART 3 - LABOUR TRAINING AND DEVELOPMENT

9. Labour training, development and placement of persons in the workforce

PART 4 - BOARDS AND THEIR DUTIES AND FUNCTIONS

10. Boards
11. Cayman Brac and Little Cayman Immigration Board
12. Appointment and functions of committees
13. Functions of Boards; Head of Work Permits, Cayman Status and Permanent Residence
14. Meetings of Boards
15. Duty of confidentiality
16. Remuneration and immunity of members of Boards
17. Immigration Appeals Tribunal
18. Meetings of Immigration Appeals Tribunal
19. Application of sections 15 and 16 to Immigration Appeals Tribunal
20. Appeals from decisions of an officer
21. Appeals from decisions of Boards and Director of WORC
22. Conduct of appeals
23. Orders of Immigration Appeals Tribunal and appeals from its decisions
24. Decisions to be administrative
25. Rules relating to appeals

PART 5 – PROVISIONS RELATING TO CAYMANIANS

26. Categories of Caymanians
27. Caymanian as of right
28. Acquisition of the right to be Caymanian by grant of the Board
29. Persons who may apply to the Director of WORC for the right to be Caymanian
30. Matters for Board's consideration
31. Procedure in relation to applications for grants under section 28
32. Record to be kept of applications and grants
33. Revocation of right to be Caymanian
34. Revocation on conviction
35. Right to relinquish grant

PART 6 - PERMANENT RESIDENCE AND EXTENDED RESIDENCE CATEGORIES

36. Categories of permanent residence
37. Persons legally and ordinarily resident in the Islands for at least eight years
38. Residency and Employment Rights Certificate for spouse of a Caymanian
39. Dependants of Residency and Employment Rights Certificate holders
40. Loss of Residency and Employment Rights Certificate
41. Residency Certificate for Persons of Independent Means
42. Certificate of Permanent Residence for Persons of Independent Means
43. Spouse and dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means
44. Dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means
45. Revocation of Certificate of Permanent Residence for Persons of Independent Means or Certificate of Permanent Residence for Dependants of Persons of Independent Means
46. Revocation of Residency Certificate for Persons of Independent Means or Residency Certificate for Retirees
47. Certificate of Direct Investment
48. Revocation of Certificate of Direct Investment
49. Certificate for Specialist Caregivers
50. Residency Certificate (Substantial Business Presence)
51. General provisions relating to loss of permanent residency
52. Qualification for legal and ordinary residency in Part 6

PART 7 - GAINFUL OCCUPATION OF NON-CAYMANIANS

53. Persons exempted
54. Provisions not applicable to special economic zone developer and economic zone enterprise
55. Who may be gainfully occupied
56. Application for work permit
57. Application of certain sections to Cayman Brac and Little Cayman Immigration Board
58. Consideration of application for work permit by Board, etc
59. Business Staffing Plan
60. Responsibility of the Board in processing applications for professional employees
61. Restricted areas of employment
62. Employers in need of domestic helpers
63. Grant or refusal of work permit
64. Change of employer
65. Prohibition against unauthorised promotion or re-designation
66. Term limits
67. Work permit fees
68. Offence to engage in gainful occupation or to employ persons in contravention of this Part
69. Administrative fines and levies

PART 8 - GENERAL

70. Marriages of convenience
71. Identification cards
72. Regulations
73. Directions to Boards and the Immigration Appeals Tribunal
74. Power to put questions and require production of documents
75. Obstruction of persons acting in execution of Law
76. Offences relating to false documents, etc.
77. Possession of immigration stamp
78. Provision of immigration services
79. Registration and exemption by the Director of WORC
80. Punishment for offences for which no penalty is provided
81. Offences against Law by corporations, liability of officers, etc.
82. Evidence in proceedings taken under, or in connection with, Law
83. Repeal and transitional provisions
84. Transition of public officers to staff of WORC
85. Application of general provisions to Cayman Brac and Little Cayman Immigration Board
86. Conflict with other laws
87. Savings of other laws

Schedule: Certificate of Right to be Caymanian

CAYMAN ISLANDS

A BILL FOR A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE DEPARTMENT OF THE WORKFORCE OPPORTUNITIES AND RESIDENCY CAYMAN; TO REPEAL THE IMMIGRATION LAW (2015 REVISION); AND FOR INCIDENTAL AND CONNECTED PURPOSES

PART 1 - PRELIMINARY

1. (1) This Law may be cited as the Immigration (Transition) Bill, 2018. Short title and commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

2. In this Law - Interpretation

“adopted” means adopted in such manner as is recognised by the law of the domicile of the person adopted at the time of the adoption;

“arms” means firearms as defined in the Firearms Law (2008 Revision) and includes batons and handcuffs; (2008 Revision)

“Appellate Tribunal” means the Work Permit Board or the Immigration Appeals Tribunal acting in an appellate capacity;

“appropriate authority” means a body or other entity charged with the responsibility for regulating the particular profession;

“Board” means one of the three Boards continued under section 10 and includes, for the purposes of sections 58(4)(b), 66 and 68, the Cayman Brac and Little Cayman Immigration Board;

“Business Staffing Plan” means the Plan referred to in section 59;

“Business Staffing Plan Board” means the Business Staffing Plan Board established under section 10(4);

“Business Staffing Plan Certificate” means the certificate that is issued by the Business Staffing Plan Board to the holder of an approved Business Staffing Plan;

“by entitlement”, in relation to the right to be Caymanian under section 26(1)(d) means entitlement by a person by virtue only of the Caymanian being, in the determination of the Director of WORC -

- (a) the child of a Caymanian;
- (b) under the age of eighteen years; and
- (c) legally and ordinarily resident in the Islands for a period of not less than one year;

“career development bureau” means a bureau established by a special economic zone developer and approved by the Special Economic Zone Authority to review and aid the training, employment and advancement of Caymanians in a special economic zone;

“Cayman Brac and Little Cayman Immigration Board” means the Immigration Board appointed under section 11;

(2015 Revision)

“Caymanian” means a person who possesses Caymanian status under the repealed Immigration Law (2015 Revision) or any earlier law providing for the same or similar rights, and includes a person who acquired that status under Part 5;

“Caymanian Status and Permanent Residency Board” means the Caymanian Status and Permanent Residency Board established under section 10(3);

“chairperson” means the chairperson of the pertinent Board;

“child” means the biological or adopted child;

“compliance officer” means an officer of WORC appointed under section 8;

“convicted” in relation to a person, means a person in respect of whom any court certifies to the Cabinet that the person has been convicted by that court, or by an inferior court from which the person’s case has been brought by way of appeal, of any offence punishable with imprisonment otherwise than only in default of payment of a fine;

“court” means a court in any jurisdiction but where a foreign court hands down a conviction, the offence in relation to that conviction shall be one which is recognised as such in the Islands;

“crew” means persons employed in the working or service of a vessel;

“dependant”, in relation to a person means the spouse of that person, or one of the following relations of that person, namely a child, step-child, adopted child, grandchild, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, being, in each case, wholly or substantially dependent upon that person;

“destitute person” means a person who is, or is likely to be, a charge on public funds by reason of mental or bodily ill-health or insufficiency of means to support himself or herself and his or her dependants, if any;

“Director of WORC” means the Director of the Workforce, Opportunities and Residency Cayman Department who is appointed under section 6;

“elderly person” means a person over the age of sixty-five years;

“electoral district” bears the meaning assigned to that expression in section 2 of the Elections Law (2017 Revision); (2017 Revision)

“employee” means a person who engages in gainful occupation in the service of himself or herself or an employer;

“employer” means a person who for reward engages the services of another and includes a prospective employer;

“employment generating business” means business in which at least thirty per cent of the total number of employees are Caymanians unless overriding circumstances dictate a lower percentage;

“final work permit”, other than in section 66(10), means a work permit which at the time of its grant or renewal is stated to be the final work permit for a worker

in accordance with the worker's term limit or, where not so expressly stated, is the last work permit that can be granted or renewed in respect of a worker as a consequence thereof;

“full-time”, in relation to a student, means attendance at a single educational institution for a minimum of ten hours per week of organised daytime study;

“gainful occupation” means the carrying on of or employment in any profession, trade, business or other vocation in or in relation to the Islands and, for the purposes of Part 7, a person so engaged is deemed to be working for gain or reward unless the contrary is proved;

“Head of Work Permits, Cayman Status and Permanent Residence” means the Head of Work Permits, Cayman Status and Permanent Residence holding office under section 13(1);

“Health Officer” means a registered medical practitioner appointed by the Cabinet to be a Health Officer for the purposes of this Law;

(2017 Revision)

“health practitioner” has the meaning assigned to that expression in the Health Practice Law (2017 Revision);

“immigration advice” means advice which -

- (a) relates to a particular individual;
- (b) is given in connection with one or more relevant matters;
- (c) is given by a person who knows that he is giving it in relation to a particular individual and in connection with one or more relevant matters; and
- (d) is not given in connection with representing an individual before a court in legal proceedings or matters ancillary to such proceedings;

“Immigration Appeals Tribunal” means the Immigration Appeals Tribunal established under section 17;

“immigration services” means the making of representations on behalf of a particular individual -

- (a) in civil proceedings before a court, tribunal or adjudicator in the Islands; or
- (b) in correspondence with a Government department in connection with one or more relevant matters;

“immigration stamp” means a device which is designed for the purpose of stamping documents in the exercise of an immigration function;

“legal and ordinary residence” means a person’s uninterrupted voluntary physical presence in the Islands for a period of time without legal impediment (other than a tourist visitor or transit passenger) during which period the Islands are regarded as his normal place of abode for the time being, except that -

- (a) absences abroad of six consecutive months’ duration or less for, inter alia, purposes of education, health, vacation or business during such period shall count as residence in the Islands;
- (b) absences abroad of more than six consecutive months but less than one year shall raise the presumption that there has been a break in residence; and
- (c) absences abroad for twelve consecutive months or more shall constitute a break in residence;

“levy” means the annual work permit fee applicable to a worker-

- (a) at the date when the worker first engaged in gainful occupation without a valid work permit; or
- (b) at the date of the first failure to comply with the conditions and limitations of his work permit,

and a certificate issued by the Director of WORC shall be prima facie evidence of such fee;

“offence” for the purposes of a grant of a work permit, the revocation of a work permit or the refusal to renew a work permit by the Board under Parts 5, (other than sections 28 and 34), 6 or 7 means a contravention against this or any other Law of the Islands in respect of which -

- (a) a term of imprisonment in excess of six months could be imposed otherwise than in default of payment of a fine; or
- (b) lesser terms of imprisonment totalling in excess of six months in the aggregate as a result of multiple convictions could be imposed; and
- (c) no appeal is pending and the time for lodging an appeal has expired;

“officer” means the Director or any other officer of WORC holding office under section 8;

“marriage of convenience” means a marriage entered into with the primary intention of avoiding, or benefiting from, any of the provisions of this Law;

(2010 Revision)

“Marriage Officer” means a Marriage Officer under the Marriage Law (2010 Revision);

“passenger” means a person, other than a member of the crew, travelling on board a vessel;

“passport” means a current valid passport furnished with a photograph and duly issued in favour of the person named in the passport;

“permanent resident” means a person who has been granted permission-

- (a) under Part 6; or
- (b) by virtue of any earlier law,

to remain permanently in the Islands and whose permission to so remain is still current and has not been revoked or lost in any way;

“person with a disability” means a person who suffers from a permanent physical or mental disability which has been documented by a doctor and who as a result of this disability is dependent on the care of a specialist caregiver;

“points system” means the guidelines set out in Schedule 2 to the Regulations whereby the Caymanian Status and Permanent Residency Board or the Director of WORC shall evaluate the merits of an application for permanent residence by awarding to, or discounting from the applicant, credits based on his personal and occupational attributes as well as his or her potential value to the community;

“prescribed” in relation to any matter, means prescribed by this Law or by regulations made under this Law;

“professional employee” means a person qualified as a lawyer, accountant, medical professional, architect, surveyor, teacher, minister of religion or qualified in any other occupation that may be prescribed;

“regulation” means any rule, order, proclamation, direction, notification or other subsidiary legislation made under this Law;

“relevant matters” means any of the following -

- (a) an application for a work permit, visa or an extension of permission to enter or remain in the Islands;
- (b) an application for the right to be Caymanian;
- (c) an application to reside permanently in the Islands;
- (d) an application for a Residency and Employment Rights Certificate;

- (e) an application for a Residency Certificate for Persons of Independent Means;
- (f) an application for bail for an immigration offence; or
- (g) an appeal against, or an application for judicial review in relation to any decision taken in connection with a matter referred to in paragraphs (a) to (f);

“replica immigration stamp” means a device which is designed for the purpose of stamping a document so that it appears to have been stamped in the exercise of an immigration function;

“restricted area of employment” means any profession, trade, business, occupation, vocation or type of employment, designated by the Cabinet under section 61;

“Secretary” means the Secretary of the pertinent Board;

“settled”, in relation to a person residing in the Islands, means a person who -

- (a) is legally and ordinarily resident in the Islands;
- (b) is not subject to any immigration restriction or control on the duration of the person’s stay in the Islands; and
- (c) has not voluntarily emigrated with the intention of making his or her home elsewhere;

“sick person” means a person who suffers from an illness which has been certified by a doctor as not being short-term in nature and as a result of which the person is dependent on the care of a specialist caregiver;

“special circumstances”, in relation to a change of employer or occupation, includes a situation where -

- (a) the position has become redundant;
- (b) the worker is being victimised by the employer or by other employees of that employer;
- (c) the employer has changed due to corporate action such as merger or amalgamation; or
- (d) the worker has been given written consent by his or her present employer;

“special economic zone” has the meaning assigned to that expression under section 2 of the Special Economic Zones Law (2017 Revision);

“Special Economic Zone Authority” means the authority established as such under section 3 of the Special Economic Zones Law (2017 Revision); (2017 Revision)

“special economic zone developer” means a person declared to be a developer pursuant to section 12 of the Special Economic Zones Law (2017 Revision);

“special economic zone enterprise” has the meaning assigned to that expression under section 2 of the Special Economic Zones Law (2017 Revision);

“specialist caregiver” means a person who, in the capacity of domestic helper, nurse, nanny or in some other care-giving capacity, cares for an elderly person, a person with a disability or a sick person;

“step-child” means a child of one of the parties to a marriage;

“student” means a non-Caymanian who is not the spouse of a Caymanian, a permanent resident of the Islands or the holder of a Residency and Employment Rights Certificate and who -

- (a) is eighteen years of age or older;
- (b) is seeking to enter the Cayman Islands for the purpose of attending a recognised educational institution on a full-time basis;
- (c) intends to leave the Islands at the end of his or her studies; and
- (d) is not named as a dependant for the purposes of this Law;

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

“term limit” means the maximum period of time in respect of which work permits may be granted or renewed for a worker as prescribed in section 66(1);

“temporary work permit” means a permit granted to allow a person to enter and remain in the Islands temporarily for a period of less than a year for the purposes of gainful occupation;

“tourist visitor” means a person arriving in the Islands for a visit of not more than six months’ duration otherwise than for a professional, financial trade or business purpose or for the purpose of seeking or engaging in employment;

“transit passenger” means a passenger who has arrived in the Islands for a period of not more than twenty-four hours, is in possession of the required travel documents and is on his or her way to a destination other than the country from which he or she arrived;

“undesirable person” means a person who in the opinion of the Cabinet is, or has been, so conducting himself or herself, whether within or outside the Islands, in such a manner that the person’s presence in the Islands is or is likely to be prejudicial to the maintenance of peace, order and good government or public morals in the Islands;

“vessel” includes aircraft or hovercraft;

“worker” means a person in respect of whom a work permit has been or may be granted or renewed under Part 7;

“Workforce, Opportunities and Residency Cayman Office” means the Department referred to under section 3;

“work permit” means any type of work permit including a temporary work permit granted under section 63, and, subject to section 68, includes any type of work permit prescribed by regulations; and

“Work Permit Board” means the Work Permit Board continued under section 10.

**PART 2 - THE WORKFORCE, OPPORTUNITIES AND RESIDENCY
CAYMAN DEPARTMENT**

3. (1) There continues to be established a department of the Government known as the Workforce, Opportunities and Residence Cayman Office referred to in this Law as “WORC”.

Functions and duties of
WORC

(2) The functions of WORC include the following -

- (a) providing to the Government and to the private sector labour market demand assessments;
- (b) training and developing Caymanians and prescribed persons for the work force;
- (c) providing a job matching and placement service for Caymanians who are seeking jobs;
- (d) processing applications for work permits and applications and grants for Caymanian status, permanent residence and other types of residence; and
- (e) carrying out such other functions as are imposed upon WORC by or under this Law or any other written law.

(3) WORC may undertake such other functions as Cabinet may assign to it and in so doing, WORC shall be deemed to be fulfilling the purposes of this Law, and the provisions of this Law shall apply to WORC in respect of such functions.

(4) WORC shall work in co-operation with any other government entity as the Cabinet considers necessary for WORC to carry out its functions.

(5) Nothing in this section shall be construed as imposing on WORC, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

Powers of WORC

4. WORC shall, in accordance with this Law, have power to do anything which is legally required to discharge its functions and duties under this Law.

Directions by Cabinet

5. The Cabinet may give to Director of WORC such directions, not inconsistent with the provisions of this Law, as the Cabinet thinks fit as to the performance of the functions of WORC and the exercise of its powers, and the Director of WORC shall give effect to any such directions.

Appointment of Director of WORC

(2018 Revision)

6. The chief officer, in accordance with the Public Service Management Law (2018 Revision), and after consultation with the relevant Minister shall appoint a suitable person who shall be called the Director of WORC, to be the officer in control of WORC.

Duties of Director of WORC

7. (1) In addition to the powers and duties conferred upon the Director of WORC by or under any other law, the Director of WORC is responsible for -

- (a) the management, supervision and control of WORC;
- (b) the administration and implementation of this Law;
- (c) the care of public and other property under in the control of WORC, but without having to account for loss thereof unless such loss is due to the personal default of the Director of WORC or the other officers of WORC.

(2) Any of the powers and duties conferred upon the Director of WORC under this Law may be delegated by the Director of WORC at any time to any officer of WORC.

Officers of WORC

(2017 Revision)

8. (1) The chief officer, in accordance with the Public Service Management Law (2018 Revision) may, in the chief officer's discretion, appoint such persons to be officers of WORC upon special contractual terms or such general terms as the chief officer may, by regulations, determine.

(2) Persons appointed under subsection (1) shall be called officers of WORC ("officers") and there shall be such different categories of officers as determined by the chief officer.

(3) Officers appointed under subsection (1) may include officers called compliance officers who shall have the function of carrying out investigations in relation to any matter under this Law, whether or not involving an alleged offence, in respect of which the WORC exercises function under this Law or any other law.

(4) A compliance officer, with the authority of the Director of WORC given in accordance with the general or special directions of the Cabinet is entitled in the performance of the officer's duties to carry arms.

(5) Compliance officers are the officers of WORC with powers to detain and arrest persons and who have all the functions relating to the investigation of offences as are provided by this Law and as may be assigned by the chief officer.

(6) Compliance officers shall, for the purpose of performing their duties under this Law, have all the powers and immunities of constables acting generally in the ordinary course of their duty.

PART 3 - LABOUR TRAINING AND DEVELOPMENT

9. (1) Subject to the provisions of this Law, the functions and duties of WORC include the following in relation to the employment of Caymanians and prescribed persons -

Labour training,
development and
placement of persons in
the workforce

- (a) to promote and facilitate employment and re-employment in the Islands through services and facilities that help Caymanians and prescribed persons of the Islands find and keep jobs;
- (b) to collaborate with and support employers, relevant representatives of commerce or industry and public sector agencies in the Islands -
 - (i) to identify and promote the enhancement of industry specific skills;
 - (ii) to enhance the employability of individuals; and
 - (iii) to increase workforce productivity and improve the international competitiveness of commerce and industry;
- (c) to promote and facilitate productive employment and employee career development, including through review and reallocation of job duties and tasks among employees (commonly called job redesign);
- (d) to promote and facilitate the adoption of best practices in the management of human capital in the Islands;
- (e) to advise and make recommendations to the Government on policies, measures and laws connected with WORC's functions under this Law or any other written law;

- (f) to encourage, promote and facilitate the development of the human resources industry in the Islands;
- (g) to promote or undertake research in the Islands into matters relating to workforce of the Islands;
- (h) to undertake, direct and support the analysis and dissemination of labour market information and trends to the public; and
- (i) to represent the Government internationally in respect of matters relating to workforce development and public employment services.

PART 4 - BOARDS AND THEIR DUTIES AND FUNCTIONS

Boards

10. (1) There continues to be established three Boards -

- (a) the Work Permit Board;
- (b) the Caymanian Status and Permanent Residency Board; and
- (c) the Business Staffing Plan Board.

(2) The Work Permit Board shall consist of the following persons appointed by and holding office at the pleasure of the Cabinet save for those persons referred to in paragraphs (d) to (h) who shall be public officers and shall hold office by virtue of their public service appointment -

- (a) a chairperson;
- (b) a deputy chairperson;
- (c) twelve members selected from among persons legally and ordinarily resident in the Islands;
- (d) the Director of WORC or the Director's designate;
- (e) the Head of Work Permits, Cayman Status and Permanent Residence or the Director's designate;
- (f) the Director's deputy or other designate;
- (g) a Secretary; and
- (h) an assistant Secretary.

(3) The Caymanian Status and Permanent Residency Board shall consist of the following persons appointed by and holding office at the pleasure of the Cabinet save for those persons referred to in paragraphs (e) to (g) who shall be public officers and shall hold office by virtue of their public service appointment-

- (a) a chairperson;
- (b) a deputy chairperson;
- (c) twelve members selected from among persons legally and ordinarily resident in the Islands;
- (d) the Director of WORC or the Director's designate;
- (e) the Head of Work Permits, Cayman Status and Permanent Residence or the Director's designate;
- (f) a Secretary; and

(g) an assistant Secretary.

(4) The Business Staffing Plan Board shall consist of the following persons appointed by and holding office at the pleasure of the Cabinet save for those persons referred to in paragraphs (e) to (j) who shall be public officers and shall hold office by virtue of their public service appointment -

- (a) a chairperson;
- (b) a deputy chairperson;
- (c) six representatives from the business community appointed so as to ensure a broad representation of the various industries in the Islands;
- (d) not more than three other persons legally and ordinarily resident in the Islands;
- (e) the Director's deputy or other designate;
- (f) the Chief Education Officer or the Chief Education Officer's designate;
- (g) the Director of WORC or the Director's designate;
- (h) the Head of Work Permits, Cayman Status and Permanent Residence or the Director's designate;
- (i) a Secretary; and
- (j) an assistant Secretary.

(5) Subject to this Law, the members of the Boards referred to in subsection (2)(d) to (h), subsection (3)(d) to (g) and subsection (4)(e) to (j) shall have such powers, privileges and responsibilities as the other members of the Board but shall not have the right to vote at Board meetings.

11. (1) There continues to be established a Board called the Cayman Brac and Little Cayman Immigration Board which consists of -

Cayman Brac and Little
Cayman Immigration
Board

- (a) a chairperson;
- (b) a deputy chairperson; and
- (c) three other members appointed by the Cabinet.

(2) The members of the Cayman Brac and Little Cayman Immigration Board shall be appointed by and hold office at the pleasure of the Cabinet.

(3) The Cabinet may appoint committees of members of the Cayman Brac and Little Cayman Immigration Board and may delegate to any such committee such function of that Board as it considers necessary.

(4) The Cabinet may appoint a Secretary to a committee appointed under subsection (3), and such Secretary shall have no right to vote.

(5) A delegation under subsection (3) -

- (a) shall be in writing;
- (b) may be made subject to such limitations and conditions as are specified in the instrument of delegation;
- (c) may be determined at any time; and
- (d) does not affect the exercise of the delegated function of the Cayman Brac and Little Cayman Immigration Board.

(6) The Cayman Brac and Little Cayman Immigration Board shall have the following functions and powers -

- (a) the processing and determination of applications, for the grant or renewal of work permits, other than for an employer with a Business Staffing Plan Certificate by persons who are seeking gainful occupation in Cayman Brac or Little Cayman;
- (b) the processing and determination of applications for Specialist Caregivers;
- (c) the determination of any ancillary matter connected with the grant of permits under paragraph (a); and
- (d) such other functions and powers within the scope of this Law as the Cabinet may, from time to time, assign to it by regulations.

(7) Subject to subsection (8), sections 14, 15, 16, 20, 21, 22 and 24 with all necessary amendments shall be construed as applying also to the Cayman Brac and Little Cayman Immigration Board.

(8) Three members of the Cayman Brac and Little Cayman Immigration Board present at any meeting shall form a quorum.

Appointment and
functions of committees

12. (1) The chairperson of a Board may appoint committees comprising no fewer than three members of the Board including the chairperson or the deputy chairperson, and may delegate to such committees any of the functions of the Board, except that -

- (a) the chairperson shall, as soon as practicable, notify the Cabinet of the appointment of any such committee; and
- (b) either the chairperson or the deputy chairperson shall be the chairperson of each committee so appointed.

(2) Notwithstanding subsection (1), no committee shall be empowered to -

- (a) grant the right to be Caymanian;
- (b) grant permanent residence;
- (c) grant Residency and Employment Rights Certificates;
- (d) issue Business Staffing Plans Certificates; or
- (e) adjudicate appeals from the decisions of officers.

(3) The Secretary or the assistant Secretary of the Board shall be the Secretary of each committee so appointed.

13. (1) There shall be appointed the Head of Work Permits, Cayman Status and Permanent Residence who shall be a public officer and to whom each Secretary shall report.

Functions of Boards;
Head of Work Permits,
Cayman Status and
Permanent Residence

(2) The duties of the Head of Work Permits, Cayman Status and Permanent Residence include -

- (a) the planning and co-ordination of the activities of -
 - (i) the Boards; and
 - (ii) the Work Permit and Permanent Residence Administration section;
- (b) development and implementation of strategies and systems to promote efficiency in the processing of applications by the Boards and by the Work Permit and Permanent Residence Administration section;
- (c) meetings with the public, at the Director's sole discretion, in relation to immigration matters; and
- (d) attending to administrative matters assigned to the Director by the Director of WORC.

(3) The Boards shall have the following functions and powers -

- (a) the Work Permit Board shall have responsibility for-
 - (i) processing, determining and granting of applications for the grant or renewal of work permits;
 - (ii) processing, determining and granting of applications for the Specialist Caregivers; and
 - (iii) the adjudication of appeals from the decisions of officers.
- (b) the Caymanian Status and Permanent Residency Board shall have responsibility for the processing, determining and granting of applications for the right -
 - (i) to be Caymanian;
 - (ii) to reside permanently in the Islands; and
 - (iii) of a spouse of a Caymanian to possess a Residency and Employment Rights Certificate; and
- (c) the Business Staffing Plan Board shall have responsibility in Grand Cayman, Little Cayman and Cayman Brac for -
 - (i) processing and determining Business Staffing Plans;
 - (ii) issuing Business Staffing Plan Certificates; and
 - (iii) processing, determining and granting applications for the grant or renewal of work permits applied for by any

employer who possesses a Business Staffing Plan Certificate.

(4) In addition to the functions referred to in subsection (3), the Boards shall -

- (a) determine any ancillary matter connected to subsection (3);
- (b) exercise such other functions and powers within the scope of this Law as the Cabinet may, from time to time, assign to it by regulation; and
- (c) exercise such other powers and functions as may be assigned to it under this or any other law.

Meetings of Boards

14. (1) Each Board shall meet at least once in every calendar month and upon such other occasions as, in the opinion of its chairperson, may be necessary or desirable in the public interest.

(2) Any member of a Board who, without obtaining the prior written permission of the chairperson, is absent from more than two out of five consecutive meetings of that Board shall cease to be a member of that Board.

(3) In the absence of the chairperson and the deputy chairperson at any meeting, the members present may elect one of their number to preside as chairperson at that meeting.

(4) At every meeting of a Board -

- (a) it shall reach its decisions by a majority of the votes of members present and voting;
- (b) the chairperson or presiding member shall have no original but only a casting vote; and
- (c) five voting members present shall form a quorum.

(5) Where a member of a Board has a personal or pecuniary interest, direct or indirect, in any matter which is to be determined by that Board, the member shall, if present at the meeting of that Board at which such matter is to be determined, as soon as practicable after the commencement thereof, disclose the fact and leave the meeting.

(6) The Secretary of each Board shall record and keep all minutes of the meetings, proceedings and decisions of that Board.

(7) Subject to subsections (1) to (6), each Board shall have power to regulate its own procedure.

15. (1) The fact and any particulars of, or relating to, any matter falling for consideration by, or the decision of, a Board shall be treated as confidential by each member of that Board and the member shall not disclose any such fact or particular otherwise than in the proper performance of the member's duties under this Law or in compliance with the order of a court of competent jurisdiction.

Duty of confidentiality

(2) The failure of any member to comply with subsection (1) -

- (a) is an offence; and
- (b) constitutes a sufficient ground for the termination of the member's appointment.

(3) Any allegation of a breach of subsection (1) shall be fully investigated by a constable of the rank of Inspector or above.

16. (1) Those members of a Board who are not public officers shall receive such remuneration in respect of each meeting attended, and the chairperson and deputy Chairperson shall receive such additional remuneration, as may be determined, from time to time, by the Cabinet.

Remuneration and immunity of members of Boards

(2) Every member of each Board shall be personally indemnified against all claims, damages, costs, charges or expenses incurred by the member in the discharge or purported discharge of the member's functions or duties under this Law except claims, damages, costs, charges or expenses caused by the member's bad faith.

17. (1) For the purposes of this Law there continues to be established an Immigration Appeals Tribunal which shall consist of the following members -

Immigration Appeals Tribunal

- (a) a chairperson;
- (b) up to five deputy chairpersons; and
- (c) a panel of persons,

all of whom shall be appointed by and hold office at the pleasure of the Cabinet.

(2) The chairperson shall be an attorney-at-law of at least seven years call to the bar; and each deputy chairperson shall be an attorney-at-law of at least five years call to the bar.

(3) For the purposes of exercising its jurisdiction the Immigration Appeals Tribunal may, if the chairperson so directs, sit in up to six divisions simultaneously or otherwise, each division presided over either by the chairperson or by a deputy chairperson sitting together with no fewer than two other members; and each such division shall be deemed to be a fully constituted Immigration Appeals Tribunal to hear and determine appeals under this Law.

(4) The Cabinet shall appoint as many Secretaries as it considers necessary to the Immigration Appeals Tribunal who shall cause to be recorded and shall keep all minutes of the meetings, proceedings and decisions of that Tribunal, and such Secretaries shall have no right to vote.

Meetings of Immigration Appeals Tribunal

18. (1) The Immigration Appeals Tribunal shall meet at least once in every calendar month and upon such other occasions as, in the opinion of the chairperson, may be necessary or desirable in the public interest.

(2) Any member of the Immigration Appeals Tribunal who, without obtaining the prior written permission of the chairperson, is absent from more than two out of five consecutive meetings of that Tribunal shall cease to be a member of the Tribunal.

(3) In the temporary absence of the chairperson or in the event of his or her inability to act, the deputy chairperson shall act as chairperson and exercise all the powers and functions of chairperson.

(4) At every meeting of the Immigration Appeals Tribunal -

- (a) it shall reach its decisions by a majority of the votes of members present and voting;
- (b) the chairperson or presiding member shall have no original but only a casting vote; and
- (c) three members present shall form a quorum.

(5) Where a member of the Immigration Appeals Tribunal has a personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Immigration Appeals Tribunal, the member shall, if present at the meeting at which such matter is to be determined, as soon as possible after the commencement thereof, disclose the fact and leave the meeting.

(6) Subject to subsections (1) to (5) and to section 25, the Immigration Appeals Tribunal shall have power to regulate its own procedure.

Application of sections 15 and 16 to the Immigration Appeals Tribunal

19. Sections 15 and 16 apply to the Immigration Appeals Tribunal as if references in those sections to the Boards were references to the Immigration Appeals Tribunal.

Appeals from decisions of an officer

20. (1) Subject to subsections (2) and (4), any person aggrieved by, or dissatisfied with, any decision of an officer may, within seven days of the communication of the decision to that person, appeal therefrom to the pertinent Board whose decision shall be final and binding upon the appellant; and the Board's decision shall, if notice thereof is sent to the appellant -

- (a) by post, be deemed to have been received by the person no later than seven days from the date of dispatch; or
- (b) by electronic mail, be deemed to have been received by the person no later than twenty-four hours after its transmission.

(2) The appeal to which subsection (1) refers is restricted to dissatisfaction with the decision of an officer -

- (a) to refuse an application for the grant of a student's visa or the extension thereof or to attach conditions to such grant; and
- (b) to refuse an application for a Residency Certificate for Persons of Independent Means, a Certificate of Direct Investment, a Residency Certificate (Substantial Business Presence) or a Certificate of Permanent Residence for Persons of Independent Means.

(3) An appellant under subsection (2) may be allowed to remain in the Islands if the appellant satisfies the Director of WORC that he or she is able to support himself or herself and his or her dependants, if any.

(4) In this section -

“pertinent Board” means the Work Permit Board, the Business Staffing Plan Board or the Cayman Brac and Little Cayman Immigration Board where relevant, except that an appeal in respect of -

- (a) subsection (2)(b) shall be heard by the Caymanian Status and Permanent Residency Board; and
- (b) the decision of an officer who at the relevant time was stationed in Cayman Brac or Little Cayman shall be heard by the Cayman Brac and Little Cayman Immigration Board.

21. (1) Save as otherwise provided in this Law, any person aggrieved by, or dissatisfied with, any decision of the Director of WORC or the Director's designate under section 37, 49 or 56(5) or of a Board other than a decision under section 20 may, within -

Appeals from decisions
of Boards and Director
of WORC

- (a) twenty-eight days of the communication of the decision to the person; or
- (b) such longer period as the chairperson of the Appeals Tribunal may, for good reason shown, allow,

serve notice on the Immigration Appeals Tribunal of the person's intention to appeal such decision.

(2) Appeals under this section and section 20 shall be by notice in writing addressed to the Secretary of the Immigration Appeals Tribunal or, in the case of an appeal under section 20, the Secretary of the pertinent Board and such notice -

- (a) shall set out the decision against which the appeal is made; and
- (b) shall be accompanied by a copy of the original application which is the subject of appeal and the prescribed non-refundable fee.

(3) Any correspondence from the pertinent Board or the Immigration Appeals Tribunal under this section or section 22 to the appellant -

- (a) by post, shall be deemed to have been received by the appellant no later than seven days from the date of dispatch; or
- (b) by electronic mail, shall be deemed to have been received by the appellant no later than twenty-four hours after its transmission.

(4) 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 decision of the Board or the Director of WORC.

(5) On receipt of a notice of appeal the pertinent Board or the Immigration Appeals Tribunal shall, within fourteen days, notify the Director of WORC or the Board of the decision against which the appeal is made.

(6) Upon receipt of a notification under subsection (5) the Director of WORC or the Board shall, within a reasonable period, deliver to the Immigration Appeals Tribunal or the Board and the appellant, the reasons for its decision or the decision of the Director of WORC.

(7) Upon receipt of the reasons referred to in subsection (6) the appellant shall within twenty-eight days in the case of an appeal under this section, or fourteen days in the case of an appeal under section 20, file his or her detailed grounds of appeal upon which the hearing shall be determined by the Immigration Appeals Tribunal or the pertinent Board, and serve a copy of the grounds of appeal on the Board or the Director of WORC.

(8) An appeal under this section or section 20 may be lodged on the ground, or grounds, and no other, that the decision in question is -

- (a) erroneous in law;
- (b) unreasonable;
- (c) contrary to the principles of natural justice; or
- (d) at variance with the Regulations.

(9) Upon receipt of the detailed grounds and any subsequent information requested, the Immigration Appeals Tribunal or the pertinent Board may -

- (a) if it is satisfied that the appellant has complied with the requirements of this section, proceed with a hearing on the grounds; or
- (b) if it is satisfied that the appellant has failed to comply with any of the requirements of this section, quash the appeal without a hearing on the grounds.

(10) In considering the detailed grounds submitted by the appellant under subsection (6), the Immigration Appeals Tribunal or the pertinent Board may request additional information or further particulars from the appellant.

(11) A decision under subsection (9) to quash an appeal shall not in itself give rise to a right of appeal.

(12) The period within which detailed grounds of appeal must be filed under subsection (6) may be extended at the discretion of the chairperson of the Immigration Appeals Tribunal or the chairperson of the pertinent Board upon request of the appellant for good reason shown in writing.

(13) The Director of WORC or the Board may, within twenty-eight days of the receipt of the grounds of appeal served under subsection (6) provide a written defence which shall be filed with the pertinent Board or the Immigration Appeals Tribunal and served on the appellant.

22. (1) A hearing on grounds as referred to in section 21(9)(a) shall take into account - Conduct of appeals

- (a) the reasons provided by the Director of WORC or the Board under section 21(6) and all information that was submitted by the appellant at the time of the appellant's original application; and
- (b) the written detailed grounds filed by the appellant under section 21(7).

(2) A hearing on grounds under subsection (1) shall be on the basis of the written grounds filed by the appellant and neither the parties nor their representatives shall be present at the hearing.

(3) Notwithstanding subsection (2), the Immigration Appeals Tribunal or the pertinent Board, may, in its absolute discretion, call upon either party or any persons as it deems necessary and relevant to address it.

(4) Where at a hearing on grounds the Immigration Appeals Tribunal or the pertinent Board determines that at least one of the grounds contained in section 21(8) has been made out, the Immigration Appeals Tribunal or the

pertinent Board shall proceed to a rehearing of the original application which was the subject of the appeal.

(5) The Immigration Appeals Tribunal or the pertinent Board when rehearing an application under subsection (4) shall do so by way of a hearing de novo and shall take into account any fresh evidence put forward by the appellant or the Director of WORC or the Board that may have arisen in relation to the parties, which is to be submitted in writing.

(6) The law in force at the time of the rehearing by the Immigration Appeals Tribunal or the Board shall govern the proceedings under subsection (5).

(7) Neither the appellant nor the representative of the appellant shall be permitted to be present at the rehearing of the original application which shall be based on written submissions with respect to fresh evidence or changes in circumstances.

(8) Where, in the opinion of the Immigration Appeals Tribunal, an appeal under this section was made frivolously, vexatiously or in bad faith, it may award costs on an indemnity basis.

(9) Representatives appearing on behalf of either party need not be persons having legal qualifications.

(10) An appeal to the Immigration Appeals Tribunal and matters referred to the Immigration Appeals Tribunal may not be remitted to the pertinent Board or to the Director of WORC.

(11) Decisions of the Immigration Appeals Tribunal and the pertinent Board shall be notified to the appellant within a reasonable period of time.

Orders of Immigration Appeals Tribunal and appeals from its decisions

23. (1) On an appeal, the Immigration Appeals Tribunal may make such order, including an order for costs, as it thinks fit.

(2) An appeal may be made to the Grand Court from a decision of the Immigration Appeals Tribunal on a point of law only.

Decisions to be administrative

24. (1) Decisions made under or by virtue of sections 13, 20, 21 and 22 shall be deemed to be administrative and not judicial decisions.

(2) Where a Board or the Director of WORC rejects an application either in whole or in part, it or the Director of WORC, if requested, shall give the

applicant brief reasons for that rejection and inform the applicant of the applicant's rights under section 20 or 21.

(3) Failure of a Board or the Director of WORC to inform an applicant of the right of appeal referred to in subsection (2) and under section 23(2) shall not of itself give rise to a right of appeal under section 21 or under section 23(2) and failure to give reasons as required by subsection (2) when first promulgating its decision to reject an application shall not give rise to such a right of appeal if the Board or the Director of WORC gives them to the applicant within thirty days of having made the decision.

(4) Save for decisions of the Immigration Appeals Tribunal or the pertinent Board by virtue of sections 13, 20, 21 and 22, the Immigration Appeals Tribunal or the pertinent Board shall provide brief written reasons for its decisions under sections 21(11) and 22(1) only if requested by the appellant within fourteen days of receipt of the Appellate Tribunal's decision.

25. The Chief Justice may make rules relating to the procedure and forms to be used for the notice of appeal to the court and the admission of evidence of any appeal heard by the Immigration Appeals Tribunal.

Rules relating to appeals

PART 5 – PROVISIONS RELATING TO CAYMANIANS

26. (1) A person shall, for purposes of this Law, be deemed to possess the right to be Caymanian if -

Categories of Caymanians

- (a) the person is Caymanian at the 1st January, 2004;
- (b) the person is Caymanian as of right as defined in section 27;
- (c) the person is Caymanian by grant of the Caymanian Status and Permanent Residency Board under section 28;
- (d) the person has obtained the right by entitlement; or
- (e) the Cabinet, acting on the recommendation of the Caymanian Status and Permanent Residency Board, grants such right to the person and that grant is subsequently ratified by the Legislative Assembly; save that the Cabinet shall not make more than four such grants in any calendar year,

and the person shall continue to possess and enjoy the right to be Caymanian unless and until the person loses it under section 33.

(2) A person who believes that he or she possesses the right to be Caymanian under subsection (1) may apply in the prescribed form to the Director of WORC for the formal acknowledgement of that right in his or her passport,

and the Director of WORC shall, within fourteen days, either provide the acknowledgement or give written reasons for the refusal to do so.

(3) Where, by application of law, a person loses that person's right to be Caymanian, the Director of WORC may cancel the passport acknowledgement referred to in subsection (2).

(4) A person aggrieved by the decision of the Director of WORC under subsection (2) or (3) may, within seven days of that decision having been communicated to him or her, appeal to the Caymanian Status and Permanent Residency Board.

(5) Notwithstanding subsection (1)(b) and (d), where a Caymanian holds himself or herself out to be the father of a child born out of wedlock, the status or domicile of the Caymanian shall not be taken into account unless -

- (a) the Caymanian is able to prove to the satisfaction of the Caymanian Status and Permanent Residency Board that he is in fact the father of the child;
- (b) under the Affiliation Law (1995 Revision) or the Status of Children Law, 2003, the Caymanian has been adjudged to be the putative father of the child; or
- (c) the Caymanian has been ordered to pay a weekly sum of money for the maintenance and education of the child.

Caymanian as of right

27. In this Part -

“Caymanian as of right” means a child -

- (a) born on or after the 1st January, 2004 whether in or outside the Islands, at the date of whose birth at least one of his or her parents was settled in the Islands and was Caymanian;
- (b) born outside the Islands, after the 1st January, 2004, at the date of whose birth at least one of his or her parents was Caymanian otherwise than by descent; or
- (c) acquiring the status of Caymanian under section 21 of the repealed Immigration Law (2015 Revision) or under any earlier law conferring the same or similar rights.

Acquisition of the right to be Caymanian by grant of the Board

28. (1) The Caymanian Status and Permanent Residency Board may, subject to section 30, grant the right to be Caymanian to any of the persons referred to in this section.

(2) Any person who -

- (a) has attained the age of eighteen years;

- (b) satisfies the Board that he or she is the child or grandchild of a Caymanian born in the Islands; and
- (c) is not otherwise entitled to the right to be Caymanian,

may apply to the Board for the grant of the right to be Caymanian.

(3) Any person who is a British Overseas Territories Citizen by reason of a certificate of naturalisation or registration issued under the British Nationality Act, 1981 or any Act preceding, amending or replacing that Act, by virtue of -

- (a) the person's connection with the Islands; or
- (b) the person's connection with any other British Overseas Territories,

may, if the person has been legally and ordinarily resident in the Islands for at least fifteen years or at least five years after the receipt of that grant, apply for the grant of the right to be Caymanian.

(4) A person -

- (a) who has been married to a Caymanian -
 - (i) for at least five years immediately preceding the application, where the marriage took place prior to the 1st January, 2004; or
 - (ii) for at least seven years immediately preceding the application, where the marriage took place on or after the 1st January, 2004;
- (b) whose marriage is not a marriage of convenience;
- (c) who is not living apart from his or her spouse under a decree of a competent court or under a deed of separation;
- (d) who has not lived apart from his or her spouse for an aggregate period of three months -
 - (i) out of the five years immediately preceding the application where the marriage took place prior to the 1st January, 2004; or
 - (ii) out of the seven years immediately preceding the application where the marriage took place on or after the 1st January, 2004;
- (e) who is legally and ordinarily resident in the Islands immediately preceding his or her application; and
- (f) who has not in any country been convicted of an offence for which a sentence of imprisonment not exceeding twelve months has been passed other than for non-payment of a fine unless -
 - (i) the conviction has been quashed on appeal or has been the subject of a free pardon;

- (ii) the act or omission giving rise to such conviction would not be an offence if done or omitted in the Islands in similar circumstances; or
- (iii) the conviction is one which, in the interest of justice, the Board directs to be ignored for the purposes of this section,

may apply to the Board for the grant of the right to be Caymanian.

(5) The Board, in calculating under subsection (4) the period of time that the applicant and his or her spouse have spent apart, shall not, where the absences are occasioned by one or other of the spouses having been away from the Islands, take into account those occasions when such absences were temporary for medical, educational, business or similar reasons.

(6) The surviving spouse of a Caymanian who -

- (a) was married to the deceased for at least seven years;
- (b) immediately before the death of the deceased was not living apart from the deceased -
 - (i) under the decree of a competent court;
 - (ii) under a deed of separation; or
 - (iii) in circumstances where, in the opinion of the Board, the marriage had irretrievably broken down;
- (c) has been legally and ordinarily resident in the Islands immediately preceding the death of the deceased; and
- (d) either has not in any country been convicted of an offence or has in any country been convicted of an offence for which a sentence of imprisonment, not exceeding twelve months, has been imposed other than for non-payment of a fine unless -
 - (i) such conviction has been quashed on appeal or has been the subject of a free pardon;
 - (ii) the act or omission giving rise to such conviction would not be an offence if done or omitted in the Islands in similar circumstances; or
 - (iii) the conviction is one which, in the interests of justice, the Board directs to be ignored for the purposes of this section,

may apply to the Board for the grant of the right to be Caymanian.

(7) Where the marriage referred to in subsection (6)(a) has not subsisted for a period of seven years or the grant of the right to be Caymanian has been refused by the Board, the surviving spouse may apply to the Director of WORC for the right to permanently reside in the Islands and the Director of WORC shall take into account -

- (a) the length of the marriage;
- (b) whether there are any children of the marriage;
- (c) whether immediately prior to the death the marriage was no longer subsisting as evidenced by a decree of a competent court, a deed of separation or what appears to be the breakdown of the marriage;
- (d) the applicant's ability to support himself or herself and any dependants; and
- (e) the applicant's health and character.

(8) Where, under subsection (7), permanent residence is granted, the Director of WORC shall issue to the successful applicant a Residency and Employment Rights Certificate, which Certificate shall entitle the holder -

- (a) to accept employment from any employer of his or her choice; and
- (b) to have reside with him or her within the Islands such of his or her dependants as were listed in his or her application and were approved by the Director of WORC,

but the Certificate shall restrict the applicant to working within the particular occupation specified by the Director of WORC; and such certificate may be varied by the Director of WORC.

(9) A person who -

- (a) has attained the age of seventeen years;
- (b) has Caymanian status which -
 - (i) will expire when he or she attains the age of eighteen years; or
 - (ii) has expired upon his or her having attained the age of eighteen years; and
- (c) has been legally and ordinarily resident in the Islands for at least five out of the seven years immediately preceding the date of the application,

may apply to the Board for the grant of the right to be Caymanian, and such application shall be granted unless the Board has compelling reasons for refusing it, and such grant shall take effect when the person attains the age of eighteen years or, where he or she is already eighteen years, from the date of the grant.

(10) In relation to the qualification for legal and ordinary residence referred to in this Part -

- (a) where any question arises as to whether an applicant was or was not, during any material period, legally and ordinarily resident in the Islands, such question shall be decided by the Board;
- (b) where an applicant has been legally and ordinarily resident in the Islands and has been absent from the Islands for any period for the purpose of his or her education, health or business, the Board may count such period of absence as a period of legal and ordinary residence in the Islands if the Board is satisfied that, but for such period of absence, the applicant would have in fact continued to be legally and ordinarily resident in the Islands; and
- (c) nothing in this subsection shall have effect so as to preclude any applicant from appealing to the Immigration Appeals Tribunal, under section 21, on the grounds that the Board came to a wrong decision on the question of whether during any material period he or she was or was not legally and ordinarily resident in the Islands.

(11) The Board, in its discretion, may require or allow an applicant to attend before it or any committee of the Board in support of his or her application, but subject as aforesaid no applicant shall be entitled to appear before the Board.

(12) Subject to this Part, where a person is the grantee of the right to be Caymanian or of Caymanian status under this or any earlier law, no person shall be entitled to apply for the right to be Caymanian by virtue only of that grant save for those persons acquiring such right by entitlement.

(13) An applicant who is aggrieved by the refusal of the Board to grant him or her the right to be Caymanian may, subject to section 21, appeal to the Immigration Appeals Tribunal against such refusal.

Persons who may apply to the Director of WORC for the right to be Caymanian

29. A person who -

- (a) was born in the Islands between the 27th March, 1977 and the 1st January, 1983;
- (b) is a British Overseas Territories Citizen by virtue of being born in the Islands; and
- (c) has resided in the Islands since birth save for absences abroad for purposes of education or medical treatment,

may, apply to the Director of WORC for the right to be Caymanian and the Director of WORC shall, save in exceptional circumstances, grant such application.

30. In the course of processing an application for the right to be Caymanian, the Board shall satisfy itself that -

Matters for Board's consideration

- (a) such grant would be in the public interest;
- (b) adequate consideration has been given to the number of dependants who would be entitled to reside in the Islands or become Caymanian by entitlement should the application be granted;
- (c) that it would be in the interest of the Islands to grant such application if the number of dependants becoming Caymanian by entitlement would be more than three;
- (d) the applicant has not committed an act of insolvency or bankruptcy, or been involved as a shareholder or director of any company or other entity which has been the subject of liquidation especially where creditors have been adversely affected;
- (e) the applicant-
 - (i) is of good character and conduct;
 - (ii) has to his or her credit three good character references received by the Board directly from three Caymanians; and
 - (iii) has a clean criminal record and has not been involved with illegal drugs;
- (f) the applicant is of good health and does not suffer from any form of communicable or mental disease that would make him or her a danger to the community;
- (g) the applicant has not been involved in organising or engaging in any subversive political activity, nor has the applicant organised, caused or promoted racism or any illegal activity within the Islands or elsewhere;
- (h) the continued residence of the applicant and his or her family will contribute to the wellbeing of the Islands;
- (i) the economic situation of the Islands and the protection of persons already engaged in similar gainful occupations have been duly considered;
- (j) adequate consideration has been given to the desirability of granting the right to be Caymanian to applicants with different backgrounds and from different geographical areas so that a suitable balance in the social and economic life of the Islands may be maintained; and
- (k) adequate consideration has been given to the desirability of retaining the economic resources of the Island in the control of Caymanians.

31. (1) Applications under section 28, which shall be made to the Board through the Secretary shall -

Procedure in relation to applications for grants under section 28

- (a) be in duplicate in the prescribed form;
- (b) be accompanied by the prescribed fee; and
- (c) state whether or not the applicant wishes to be heard in person.

(2) In granting or rejecting an application under section 28, the Board shall be deemed to have acted administratively and not judicially.

(3) Where an application has been rejected, the applicant shall not be permitted to make any further application until after the lapse of one year from the date of the communication of the decision.

(4) Notwithstanding subsection (3), where a person -

- (a) is qualified under any subsection of section 28 to apply for the grant of the right to be Caymanian; and
- (b) made an application under that subsection,

and the application was rejected, the person may apply at any time after such rejection under any other subsection of section 28 under which the person is also qualified to apply.

Record to be kept of applications and grants

32. (1) The Secretary shall keep a record of every application for a grant of the right to be Caymanian and the result thereof, and such grant shall be evidenced by a certificate under the hand of the chairperson or by the Cabinet in the form in the Schedule.

(2) The Secretary shall cause notice of the grant to be published in the Gazette.

Revocation of right to be Caymanian

33. (1) The right to be Caymanian granted by the Board may be revoked -

- (a) where the holder has supplied false or misleading information in a material particular, to the Board;
- (b) where the holder has ordinarily resided outside the Islands for a period of five years and can no longer be said to be settled in the Islands;
- (c) where the marriage of the holder, being the spouse of a Caymanian, is deemed by the Board to have been a marriage of convenience; or
- (d) where within three years of the grant to the spouse of a Caymanian of the right to be Caymanian under this or any earlier Law, the marriage of the holder -
 - (i) in the opinion of the Board or the Director of WORC has broken down;

- (ii) has declined to the point where the parties have separated as a result of a decree of a competent court or a deed of separation; or
- (iii) no longer subsists.

(2) The holder of the right to be Caymanian by entitlement under this Law or under any analogous provision in an earlier law -

- (a) may lose that right where the holder has not been legally and ordinarily resident in the Islands for a period of seven years immediately before reaching the age of eighteen years; and
- (b) shall notify the Director of WORC forthwith of the relevant circumstances involving his or her legal and ordinary residence in the Islands and wilful failure to do so is an offence.

(3) The Board may, by order, divest any person who has been granted the right to be Caymanian under section 28, or Caymanian status under any earlier law, of such right or status if it is satisfied that the grant was obtained by means of fraud, false representation or the concealment of any material fact; and with respect to such order-

- (a) the Board shall, by notice, inform the person affected, of the order and of his or her right to appeal to the Immigration Appeals Tribunal as provided in this Law;
- (b) if the person affected is aggrieved by the order, the person may, subject to section 21, appeal to the Immigration Appeals Tribunal against the order; and
- (c) in the event of there being no appeal or if an appeal is disallowed, the Board shall notify the Director of WORC of the order and shall cause notice of the order to be published in the Gazette.

(4) Any person who, having possessed the right to be Caymanian, ceases by virtue of subsections (1) to (3) to possess or to be deemed to possess the right to be Caymanian shall, for the purposes of this Law, be treated as if he or she had never acquired, possessed or enjoyed the right to be Caymanian and the provisions of this Law shall apply and have effect accordingly.

(5) Nothing in subsections (1) to (4) shall have effect so as to preclude a person who has, by virtue of such subsections, ceased to possess the right to be Caymanian from applying to the Board for the grant of that right under section 28.

34. (1) Where the grantee of the right to be Caymanian or of Caymanian status under this or any earlier law is convicted by any court in the Islands or elsewhere of an offence -

Revocation on conviction

- (a) for which the grantee is sentenced to an immediate term of imprisonment of twelve months or more, other than for non-payment of a fine; and in respect of which conviction his or her rights of appeal have been exhausted; or
- (b) which, in the opinion of the grantor, was made possible by, facilitated by or connected with the grant,

the grantor may revoke the grant on his or her own motion.

(2) Where the court referred to in subsection (1) is a foreign court, the offence committed must have been an offence that would be recognised as an offence in the Islands.

Right to relinquish grant

35. In respect of any rights granted under this Part or Part 6, the holder may relinquish such rights of his or her own free will by advising the Board or the Director of WORC in writing and upon that relinquishment that person shall cease to enjoy any of the rights associated with that grant.

PART 6 - PERMANENT RESIDENCE AND EXTENDED RESIDENCE CATEGORIES

Categories of permanent residence

36. (1) The Caymanian Status and Permanent Residency Board and the Director of WORC may grant the right to reside permanently in the Islands to the following non-Caymanian applicants -

- (a) persons, including their spouses, who have been legally and ordinarily resident in the Islands for a minimum period of eight years;
- (b) the spouse of a Caymanian; and
- (c) a dependant of a Residency and Employment Rights Certificate who meets the requirements set out in section 39.

(2) The Director of WORC may grant the right to reside permanently to -

- (a) the surviving spouse of a Caymanian under section 28(7); and
- (b) persons of independent means, including their spouses, under section 42.

(3) In this Part, unless the context otherwise requires, a reference to the Director of WORC in relation to the grant of permanent residence under section 37 or a Residency and Employment Rights Certificate under section 38 shall be construed as a reference to anyone specifically designated by the Director of WORC to perform those duties.

(4) A person who is a British Overseas Territories Citizen by virtue of a connection with the Islands, by registration by entitlement under the British

Nationality Act, 1981, or any Act preceding, amending or replacing that Act, shall have the right to remain permanently in the Islands and shall cease to have such right where -

- (a) the person ceases to be a British Overseas Territories Citizen;
- (b) the person has, subsequent to the grant of the certificate, been ordinarily resident outside the Islands continuously for a period of five years or acquires a domicile other than a domicile in the Islands, unless the Cabinet rules otherwise;
- (c) the Cabinet is satisfied that the grant of the certificate was obtained by fraud, false representation or the concealment of any material fact;
- (d) the person engages in gainful occupation or any trade or business without the permission of the Work Permit Board, the Business Staffing Plan Board, the Caymanian Status and Permanent Residency Board or the Director of WORC; or
- (e) the person falls into one of the categories enumerated in section 51.

37. (1) Any person who has been, and is legally and ordinarily resident in the Islands for a period of at least eight years other than -

Persons legally and ordinarily resident in the Islands for at least eight years

- (a) the holder of a Residency Certificate for Persons of Independent Means;
- (b) the holder of a Residency Certificate for Retirees;
- (c) the holder of a Certificate of Direct Investment or a Direct Investment Holder's (Dependant's) Certificate;
- (d) the holder of a Residency Holders (Dependant's) Certificate;
- (e) the holder of a Certificate of Permanent Residence for Persons of Independent Means; or
- (f) a person who was granted permanent residence under any earlier law in circumstances analogous to paragraphs (a) or (b),

may apply in the prescribed form and manner to the Board or the Director of WORC for permission for himself or herself, his or her spouse and his or her dependants, if any, to reside permanently in the Islands and such application shall be accompanied by the prescribed application fee, issue fee, dependant fee and the annual fee with respect to the first year.

(2) For the purpose of assessing the suitability of an applicant for permanent residence, a points system shall be prescribed by the Cabinet.

(3) In considering an application for permanent residence under subsection (1), the Board or the Director of WORC upon applying the criteria set out in the points system shall only grant permanent residence to all applicants attaining one hundred and ten points or more.

(4) Where an application under subsection (1) has been refused and the applicant has not appealed against such refusal or has appealed against such refusal and lost the appeal, the applicant is barred from re-applying under the provisions of that subsection and shall leave the Islands upon the expiration of any period during which the applicant was allowed to work under section 66(4) unless the applicant is entitled to remain by virtue of any other provision of this Law; and such debarment shall continue -

- (a) in the case of a worker, until the worker re-qualifies under the criteria contained in this section having taken the break in stay required under section 66(1); or
- (b) in the case of a Government employee, for a period of nine years following the date of the refusal of the Government employee's application or any subsequent appeal in respect of that application.

(5) Upon the grant of permanent residence, the Board or the Director of WORC shall issue to the successful applicant a Residency and Employment Rights Certificate, which Certificate shall entitle the holder -

- (a) to accept employment from any employer of his or her choice; and
- (b) to have reside with him or her such of his or her dependants as were listed in his or her application and were approved by the Board or the Director of WORC,

but the Certificate shall restrict the holder to working within the particular occupation or occupations specified by the Board or the Director of WORC and such Certificate may be varied by the Board or the Director of WORC, but there shall be no entitlement to be self-employed.

(6) For the avoidance of doubt, where the prescribed fees have not been submitted as required under subsection (1) or section 39(3), the Board or the Director of WORC shall not entertain the application.

(7) Where the Board or the Director of WORC varies a Certificate under subsection (5) to change an occupation, the original occupation specified by the Board or the Director of WORC shall remain and shall be the occupation upon which the annual fee is based unless the new occupation is in a higher fee category.

(8) When applying under this section for the right to reside permanently in the Islands the applicant shall provide full particulars of his or her spouse and all dependants whether or not it is intended that they would accompany the applicant

if the applicant's application is successful; and the failure to provide such particulars in the application is an offence.

(9) Where an application for the right to reside permanently in the Islands, or an appeal before the Immigration Appeals Tribunal is pending, and there is a change with respect to the dependants named in the application, the applicant or the appellant, as the case may be, shall so inform the Board or the Director of WORC in writing and may request that such dependants be included in the application or appeal when it is being determined.

(10) An applicant referred to in subsection (9) shall also inform the Board or the Director of WORC in respect of his or her application if there is any change in the applicant's circumstances since making the application, in relation to -

- (a) any convictions the applicant may have received;
- (b) whether the applicant has become unemployed;
- (c) whether the applicant has been charged with an offence;
- (d) whether the applicant no longer holds any of the assets listed in the application; and
- (e) any change in applicant's marital status or in respect of his dependants,

and failure to do so is an offence.

(11) Where there is a change in the number of children who are dependants of the holder of a Residency and Employment Rights Certificate born subsequent to the issue thereof, the holder shall so inform the Board or the Director of WORC of the fact and the Board or the Director of WORC may amend the Certificate to include any additional children subject to such conditions as the Board or the Director of WORC may, in its or the Director's absolute discretion, determine.

(12) The holder of a Certificate issued under subsection (5) or section 41 or 42 shall provide annually a declaration containing prescribed particulars in respect of the holder and the holder's dependants and the holder's failure to provide such declaration is both an offence and a ground for revocation of the Certificate.

(13) Upon the grant to reside permanently in the Islands under this section, it shall be a condition of such grant that where the holder sells property that was listed in the holder's application for permanent residence for the purpose of purchasing alternative property, such purchase shall be completed within one hundred and eighty days of the sale unless there are exceptional circumstances.

(14) Further to subsection (13), the holder shall inform the Board or the Director of WORC of the details of the new property including the purchase price and the date on which the transaction was completed and the notification shall be made within thirty days of such transaction.

(15) Where a person possesses permanent residence granted under any law that has been repealed, the Caymanian Status and Permanent Residency Board or the Director of WORC shall have the power to vary or amend the terms of the grant to add or remove dependants; but a dependant so removed shall have the right to apply to the Board or the Director of WORC for the grant of a Residency and Employment Rights Certificate in the dependant's own right.

(16) The spouse of a permanent resident may apply to the Board or the Director of WORC for a Residency and Employment Rights Certificate, which if granted, will be subject to the same conditions and entitlements as specified in subsection (6).

(17) It shall be the duty of the holder of a Residency and Employment Rights Certificate granted under this section and the holder's employer to report to the Board or the Director of WORC any change in the holder's employment circumstances such as -

- (a) the holder being employed; or
- (b) the holder being terminated, promoted, demoted or re-designated,

and the failure to do so is an offence and shall render both the holder and the holder's employer, both previous and current, liable.

(18) Upon the death of the holder of a Residency and Employment Rights Certificate issued under subsection (5) or upon the dissolution of the holder's marriage the right of his or her surviving spouse or former spouse to reside in the Islands may be revoked at the discretion of the Board or the Director of WORC, but the surviving or former spouse may, within a period of three months of the revocation apply for the grant of a Residency and Employment Rights Certificate upon satisfying the requirements of this section.

(19) Upon the death of the holder of a Residency and Employment Rights Certificate issued under subsection (5), or upon the dissolution or breakdown of his or her marriage -

- (a) the spouse of the deceased Certificate holder; and
- (b) the holder of the Certificate and his or her spouse in the case of the dissolution or breakdown of their marriage,

shall notify the Board or the Director of WORC within six months of the death, dissolution or breakdown, and the failure to make such notification in the case of paragraph (b) is an offence for which the holder and the holder's spouse shall be liable.

(20) Where an application for a Residency and Employment Rights Certificate has been made under subsection (18) within the period of three months from the date of any revocation, the applicant's right to reside in the Islands shall continue upon the same terms and conditions until the Board or the Director of WORC determines the application or the Immigration Appeals Tribunal determines any subsequent appeal.

(21) The right of a dependant child of the holder of a Residency and Employment Rights Certificate issued under subsection (5) or (18) to reside in the Islands as a dependant shall cease upon reaching the age of eighteen years unless his or her parent's Residency and Employment Rights Certificate has been varied to reflect the fact that the dependant child is engaged in full-time tertiary education, or the Director of WORC is satisfied that there are special circumstances.

(22) A person who enjoys the status of permanent residence granted prior to 1st January, 2004, may apply to the Board or the Director of WORC for a variation of that status to enable him or her to acquire the rights outlined in subsection (5), and in the absence of exceptional circumstances the Board or the Director of WORC shall approve the application.

(23) Where the Director of WORC or the designate of the Director of WORC entertains an application under this section or section 38, it shall be their responsibility to record and keep, or cause to be recorded and kept, minutes of the deliberations including decisions taken.

38. (1) Subject to section 40(3), the spouse of a Caymanian may apply to the Director of WORC or the Caymanian Status and Permanent Residency Board for permission to reside in the Islands and if such application is successful the Director of WORC or the Board, as the case may be, shall grant to the applicant a Residency and Employment Rights Certificate.

Residency and
Employment Rights
Certificate for spouse of
a Caymanian

(2) The application shall be accompanied by evidence as to the stability of the marriage and a statement as to the number of dependants, if any, of the spouse.

(3) The Director of WORC or the Board shall take into account the following, namely that -

- (a) the spouse of the applicant is Caymanian;
- (b) the marriage is not a marriage of convenience;
- (c) the applicant is of good character;
- (d) the applicant is in good health as evidenced by a recent medical certificate;
- (e) the marriage is stable; and
- (f) the applicant and his or her spouse have sufficient financial means to support himself or herself and his or her dependants listed on the application as accompanying him or her.

(4) A person to whom a Residency and Employment Rights Certificate is granted under this section shall, as long as the marriage remains stable, be entitled -

- (a) to remain and work in the Islands in any occupation without the need to possess a work permit; and
- (b) to have such of his or her dependants as were listed on the application and were approved by the Board or the Director of WORC reside in the Islands until they have attained the age of eighteen unless the Certificate has been varied to reflect the fact that the dependant is engaged in full-time tertiary education or the Board or the Director of WORC is satisfied that there are special circumstances.

(5) Subsection (4)(b), insofar as it relates to the listing of dependants and their approval by the Board or the Director of WORC, shall not apply to a person who became the holder of a Residency and Employment Rights Certificate prior to the 21st December, 2006 and such person shall continue to enjoy the same rights to which the person was entitled immediately prior to the 21st December, 2006.

(6) The spouse of a Caymanian shall have no right to reside or be gainfully employed in the Islands unless the spouse is the holder of a Residency and Employment Rights Certificate granted under this section and spouse shall not be entitled to apply for, or to be granted, a work permit or the renewal of a work permit, but where a work permit is in effect on the date of the marriage spouse may continue to work under the terms and conditions of the work permit until its expiration.

(7) Notwithstanding subsection (6), whenever the Board or the Director of WORC is satisfied that there are exceptional circumstances it or the Director of WORC may grant or renew a work permit for the spouse of a Caymanian for a period not exceeding three years in total after which no further permits may be granted or renewed in respect of that person unless the marriage is dissolved.

(8) Notwithstanding subsection (6) where a spouse is the holder of a work permit and the spouse applies for a Residency and Employment Rights Certificate during the currency of the work permit, the spouse may continue to work during the period between the expiration of the work permit and -

- (a) the determination of the application for the Certificate by the Board or by the Director of WORC; or
- (b) the determination of an appeal to the Immigration Appeals Tribunal where the spouse has appealed the Board's or the Director of WORC's decision to refuse the application.

(9) Where a person who is the spouse of a Caymanian and who has at any time been -

- (a) the holder of a work permit;
- (b) employed by the Government of the Islands; or
- (c) employed in the Islands by the Government of the United Kingdom,

applies for a Residency and Employment Rights Certificate under this section, then, in the absence of exceptional circumstances, the Board or the Director of WORC shall approve his or her application.

39. (1) A dependant of a Residency and Employment Rights Certificate holder, having attained the age of eighteen years, may apply to the Board or the Director of WORC for a Residency and Employment Rights Certificate and shall, be granted the right to permanently reside in the Islands if -

Dependants of
Residency and
Employment Rights
Certificate holders

- (a) the dependant was declared in the original application for the Certificate;
- (b) the dependant is found to be of good character and conduct;
- (c) the dependant has been legally and ordinarily resident in the Islands for at least seven years immediately prior to the application; and
- (d) the holder of the Residency and Employment Rights Certificate continues to possess it or has become a Caymanian.

(2) A person who applies for a Residency and Employment Rights Certificate under this section is not subject to section 37(3) but, on obtaining such Certificate, is subject to the provisions of sections 37(6) to (23), 40 and 51.

(3) An application under subsection (1) shall be accompanied by the prescribed application fee, issue fee and the annual fee with respect to the first year.

(4) An application under subsection (1) shall be made prior to the dependant attaining the age of nineteen, if the dependant's parent's Residency and Employment Rights Certificate has not been varied so that the dependant may remain a dependant during the dependant's tertiary education or within six months of the end of such education but in either case it shall be made no later than the dependant's twenty-fourth birthday.

Loss of Residency and
Employment Rights
Certificate

40. (1) Subject to subsection (2), the holder of a Residency and Employment Rights Certificate who is the spouse of a Caymanian or has obtained a Residency and Employment Rights Certificate as a result of his or her marriage to the holder of a Residency and Employment Rights Certificate under section 37(16) or any other earlier analogous provision, shall forfeit his or her rights under that Certificate if -

- (a) the holder falls within any of the provisions of section 51;
- (b) the holder's spouse ceases to be a Caymanian or to be a Residency and Employment Rights Certificate holder;
- (c) within ten years of the marriage, the marriage is dissolved or annulled;
- (d) the holder ceases to be legally and ordinarily resident in the Islands; or
- (e) the holder and his or her spouse are living apart -
 - (i) under a decree of a competent court;
 - (ii) under a deed of separation; or
 - (iii) in circumstances where, in the opinion of the Board or the Director of WORC, the marriage has irretrievably broken down.

(2) A person who has forfeited his or her rights under subsection (1) and -

- (a) is or was the spouse of a Caymanian; and
- (b) is the parent of a Caymanian child,

may apply to the Board or the Director of WORC for a continuation of the Residency and Employment Rights Certificate -

- (i) until the child reaches the age of eighteen years; or
- (ii) where the child is enrolled in tertiary education, until the child completes his or her education or has reached the age of twenty-four years, whichever happens earlier.

(3) Notwithstanding section 38(1), where the holder of a Residency and Employment Rights Certificate is the surviving spouse of a Caymanian, that surviving spouse shall be required, in order to continue to hold that Certificate, to apply to the Board or the Director of WORC for the right to continue to hold the Certificate and -

- (a) the Board or the Director of WORC shall, in considering the application take into account -
 - (i) the length of the marriage;
 - (ii) whether there are any children;
 - (iii) whether immediately prior to the death the marriage was no longer subsisting as evidenced by a decree of a competent court, a deed of separation or what appears to be the breakdown of the marriage;
 - (iv) the applicant's ability to support himself or herself and any dependants; and
 - (v) the applicant's health and character; and
- (b) thereafter, the Board or the Director of WORC shall either revoke the Certificate or allow the continuation of the Certificate.

41. (1) A person of independent means who has attained the age of eighteen years and who satisfies the requirements of this section may apply to the Director of WORC for a Residency Certificate for Persons of Independent Means.

Residency Certificate for
Persons of Independent
Means

(2) An applicant under this section shall be granted a Residency Certificate for Persons of Independent Means, without the right to work, valid for twenty-five years and renewable thereafter at the discretion of the Director of WORC if the applicant satisfies the Director of WORC that -

- (a) the applicant has no serious criminal conviction;
- (b) the applicant is in good health and possesses adequate health insurance coverage; and
- (c) the applicant has attained the financial standing as prescribed under this Law.

42. (1) A person of independent means who satisfies the requirements of this section may apply in the prescribed manner to the Director of WORC for the grant of the right to reside permanently in the Islands.

Certificate of Permanent
Residence for Persons of
Independent Means

(2) Subject to subsection (4) an applicant under this section shall be granted a Certificate of Permanent Residence for Persons of Independent Means, without the right to work, if the applicant satisfies the Director of WORC that -

- (a) the applicant has invested the prescribed sum in developed real estate in the Islands;
- (b) the applicant and his or her spouse (where applicable) have a clean criminal record;
- (c) the applicant, his or her spouse and dependent children (where applicable) are in good health and possess adequate health insurance coverage; and
- (d) the applicant has the required prescribed financial resources to adequately maintain himself or herself and his or her dependents.

(3) Notwithstanding subsection (2) and section 43(1) the holder of a Certificate of Permanent Residence for Persons of Independent Means issued under this section, or his or her spouse, if he or she holds a Certificate of Permanent Residence for Dependants of Persons of Independent Means issued under section 43, may apply to the Caymanian Status and Permanent Residency Board or the Director of WORC for a variation of his or her Certificate to allow the right to work for any employer but only in the particular occupation or occupations specified by the Board or the Director of WORC.

(4) The Cabinet shall establish a quota that would restrict the number of Certificates granted under this section and such quota shall be gazetted.

Spouse and dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means

43. (1) The spouse and such dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means as were listed on the application and were approved by the Director of WORC shall be granted a Residency Holders (Dependant's) Certificate or a Certificate of Permanent Residence for Dependants of Persons of Independent Means respectively,

(2) The holder of a Certificate under subsection (1) is permitted, subject to this section, to reside in the Islands without the right to work except that in the case of a Certificate of Permanent Residence for Dependants of Persons of Independent Means such Certificate may be varied under section 42(3) to allow the right to work.

(3) Upon the death of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means or upon the dissolution of the marriage, the right of the surviving or former spouse to reside in the Islands may be revoked at the discretion of the Director of WORC but the surviving or former spouse may, within a period of three months of any revocation, apply for the grant of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means upon satisfying the requirements of this section.

(4) Where an application for a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means has been made within the period of three months from the date of any revocation, the applicant's right to reside in the Islands shall continue upon the same terms and conditions of the revoked certificate until the Director of WORC determines the application.

44. (1) The right of a dependant child to reside in the Islands as a dependant shall cease upon the dependant child reaching the age of eighteen years unless his or her parent's Residency Certificate for Persons of Independent Means or Certificate of Permanent Residence for Persons of Independent Means has been varied to reflect the fact that the dependant child is engaged in full-time tertiary education, or the Director of WORC is satisfied that there are special circumstances.

Dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means

(2) Where a Residency Certificate for Persons of Independent Means was issued under this Law or any corresponding provision of an earlier Law, the Director of WORC may vary it.

(3) A dependant child of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means who-

- (a) was listed in the original application for the certificate;
- (b) has attained the age of eighteen years; and
- (c) is of proven good character and conduct,

may apply for permanent residence under section 37.

45. The holder of a Certificate of Permanent Residence for Persons of Independent Means or a Certificate of Permanent Residence for Dependants of Persons of Independent Means may, at the discretion of the Director of WORC, have his or her right to reside in the Islands revoked if -

Revocation of Certificate of Permanent Residence for Persons of Independent Means or Certificate of Permanent Residence for Dependants of Persons of Independent Means

- (a) the holder fails to maintain the required prescribed level of investment in developed real estate in the Islands; or
- (b) in the opinion of the Director of WORC, any of the matters referred to in section 51(1)(a) to (j) applies to the holder or his or dependants.

46. The holder of a Residency Certificate for Persons of Independent Means or the holder of a Residency Certificate for Retirees acquired under the Immigration Law, 2003 may, at the discretion of the Director of WORC, have the right to reside in the Islands revoked if -

Revocation of Residency Certificate for Persons of Independent Means or Residency Certificate for Retirees

- (a) the holder fails to maintain his or her prescribed financial standing stipulated in section 41;
- (b) the holder was not physically present in the Islands for a minimum of thirty days in aggregate in any calendar year; or
- (c) in the opinion of the Director of WORC any of the matters referred to in section 51(1)(a) to (j) applies to the holder.

47. (1) A person who -

Certificate of Direct Investment

- (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 the person 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; and
- (c) can prove -
 - (i) that he or she has available to him or her and under his or her personal control funds to the value of the proposed investment amount; or
 - (ii) that he or she has already invested the minimum prescribed sum of money in a licensed employment generating business in the Islands,

(2015 Revision)

(2018 Revision)

may apply to the Director of WORC for a Certificate of Direct Investment but such Certificate shall not confer any right to a licence under the Local Companies (Control) Law (2015 Revision) or the Trade and Business Licensing Law (2018 Revision).

(2) Where the Director of WORC is satisfied that -

- (a) the applicant and his or her spouse (where applicable) have a clean criminal record;
- (b) the applicant, his or her 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),

the Director of WORC 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 or she has made the investment proposed and has obtained all required licences, then the Director of WORC 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 Director of WORC.

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

(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 or she has invested for the purpose of obtaining the Certificate in an occupation or in occupations approved by the Director of WORC.

(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 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 Director of WORC but the 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 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 Director of WORC determines the application.

(9) The right of a dependent child to reside in the Islands as a dependant shall cease upon reaching the age of eighteen years unless his or her parent's Certificate of Direct Investment has been varied to reflect the fact that the dependent child is engaged in full-time tertiary education, or the Director of WORC 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 or she marries, divorces subsequent to the issue of the Certificate, or changes his or her occupation within the business or businesses, the holder shall so inform the Director of WORC of the fact and the Director of WORC may amend the Certificate accordingly and subject to such conditions as Director of WORC may, in his or her absolute discretion, determine.

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

- (a) the holder has provided to the Director of WORC audited financial statements pertaining to the holder's investments at the required intervals;
- (b) the holder maintains the prescribed level of investment;
- (c) none of the holder's business licences has been revoked;
- (d) the holder 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

48. The holder of a Certificate of Direct Investment may, at the discretion of the Director of WORC, have his or her right to reside in the Islands revoked if -

- (a) the holder fails to provide audited financial statements pertaining to his or her investments at the required intervals or when requested by the Director of WORC;
- (b) the holder fails to maintain the required prescribed level of financial investment;
- (c) any of the holder's business licences has been revoked;
- (d) the holder 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) the holder fails to pay the prescribed fees in respect of himself, herself or his or her dependants; or
- (g) in the opinion of the Director of WORC, any of the matters referred to in section 51(1)(a) to (j) applies to the holder or his or her spouse.

Certificate for Specialist
Caregivers

49. (1) The employer or former employer of a person who meets the criteria contained in subsection (2) may apply to the Work Permit Board, or the Director of WORC, or, where the employment relates to employment in Cayman Brac or Little Cayman, to the Cayman Brac and Little Cayman Immigration Board, for the grant or renewal of a Certificate for Specialist Caregivers in respect of that person.

(2) The criteria mentioned in subsection (1), in respect of a person's eligibility for employment under a Certificate for Specialist Caregivers, are as follows -

- (a) the person holds a final work permit;

- (b) the person is or was employed with the employer or former employer making the application, as a domestic helper, nurse or nanny, or in some other care giving capacity -
 - (i) for at least three years immediately before the permission to be employed in that capacity terminated; or
 - (ii) for a period of at least one year preceding the expiration of his or her term limit and the Work Permit Board, the Cayman Brac and Little Cayman Immigration Board or the Director of WORC, as the case may be, is satisfied that there are, in relation to the application, exceptional circumstances;
- (c) where the person held a final work permit which has expired and the person has departed the Islands, the application for employment under a Certificate for Specialist Caregivers shall be made within one year from the date of that departure;
- (d) the person holds permission granted under section 66(4);
- (e) where the person held permission granted under section 66(4) which has expired, the application for employment under a Certificate for Specialist Caregivers may be made if the person is otherwise legally resident in the Islands or remains in the Islands on the basis of permission granted under the Customs and Border Control Law, 2018;
- (f) in relation to paragraphs (a) to (d), such final work permit or permission is or was for employment by an employer (including, the Government or a nursing home approved by the Cabinet) as a domestic helper, nurse or nanny, or in some other care giving capacity;
- (g) the person is or was employed with the employer or former employer making the application, as a domestic helper, nurse or nanny, or in some other care giving capacity, for at least three years immediately before the permission to be employed in that capacity terminated;
- (h) the person is or was employed for the purpose of caring for a sick person, elderly person or person with a disability; and
- (i) the person is in good health and possesses health insurance coverage.

(3) Where, having received an application under subsection (1), the Work Permit Board or the Director of WORC, is satisfied that the criteria in subsection (2) are met, the Work Permit Board or the Director of WORC, having regard to the criteria contained in section 58(3) may, upon payment of the prescribed fee, issue a Certificate for Specialist Caregivers, valid for five years, to take effect -

- (a) upon the expiry of the employee's final work permit or permission granted under section 66(4); or

- (b) in the event that the employee's final work permit or permission granted under section 66(4) has expired, upon the date of the decision of the Board or the Director of WORC,

and such Certificate shall be renewable for a period of five years, on application to the Board or the Director of WORC and upon payment of the prescribed fee, if the criteria contained in subsection (2) remain satisfied.

(4) Upon the issue of a Certificate for Specialist Caregivers, the name of the person being cared for shall be inscribed on the Certificate.

(5) A Certificate for Specialist Caregivers shall entitle the employee named in it to continue to work, or return to work, for the employer with whom the employee has been, or was, employed prior to the expiry of the employee's final work permit or permission granted under section 66(4) in the capacity of a domestic helper, nurse or nanny or in any other care giving capacity, caring for the sick person, elderly person or person with a disability named in the Certificate.

(6) Where, during the currency of any final work permit or permission granted under section 66(4), an application had been made to the Work Permit Board or to the Director of WORC -

- (a) for the grant of a Certificate for Specialist Caregivers where the applicant is eligible to make such an application; or
- (b) for the renewal of a Certificate for Specialist Caregivers prior to the expiry of the current Certificate,

then, if such application -

- (i) has not yet been determined by the Work Permit Board or the Director of WORC; or
- (ii) has been refused by the Work Permit Board or the Director of WORC and that refusal has been appealed under section 21 to the Immigration Appeals Tribunal within the prescribed time for doing so,

notwithstanding the fact that the final work permit, permission granted under section 66(4) or the Certificate for Specialist Caregivers has expired, it shall not be an offence for the employee to whom the application relates to continue to be engaged in gainful occupation on the same terms and conditions of the final work permit, the permission granted under section 66(4) or the Certificate for Specialist Caregivers while awaiting a notification of the determination of the application or appeal.

(7) A Certificate for Specialist Caregivers shall not confer any rights on the employee's spouse or dependants with respect to residence and employment rights in the Islands.

(8) Where during the currency of a Certificate for Specialist Caregivers, the employer who is the holder of the Certificate dies or is no longer capable of holding the Certificate, the Certificate may be transferred at the discretion of the Work Permit Board or the Director of WORC to another competent holder but the employee will continue to care for the same sick person, elderly person or person with a disability named in the Certificate.

(9) An application for the renewal of a Certificate for Specialist Caregivers, where the applicant was eligible to make such application, may be refused and a Certificate may be revoked by the Work Permit Board or the Director of WORC if -

- (a) the employee named in the Certificate ceases to be employed by the employer named in the Certificate;
- (b) the person named in the Certificate as being the employer dies or becomes in the opinion of the Work Permit Board or the Director of WORC no longer capable of holding the Certificate;
- (c) the person named in the Certificate as being cared for dies or ceases to be a sick person or a person with a disability; or
- (d) in the opinion of the Work Permit Board or the Director of WORC, any of the matters referred to in section 51(1)(a), (c), (d), (e), (f), (g), (h), (k) or (n) applies to the employee named in the Certificate.

(10) Where the employment arrangement between the employee and the employer who is the Certificate holder ceases or the Certificate holder or the person named in the Certificate as being cared for dies or ceases to be a sick person or a person with a disability, the employee named in the Certificate or the employer who is the Certificate holder shall inform the Board or the Director of WORC within thirty days of the cessation or the death or the change in circumstances with respect to the person being cared for, and failure to do so is an offence for which both the Certificate holder and the employee named in the Certificate shall be liable.

(11) Upon the expiry of a Certificate for Specialist Caregivers and where no application is made for its renewal, or the application is not permitted to be made, or an application is made but is refused and no appeal has been made, the employee named in the Certificate shall leave the Islands unless the employee is allowed to remain under some other provision of this Law, and neither the Board nor the Director of WORC shall grant or renew a work permit for the employee for not less than one year after the employee has left the Islands.

Residency Certificate
(Substantial Business
Presence)

50. (1) A person who is or proposes to be legally and ordinarily resident in the Islands for a minimum period of ninety days in each calendar year and who -

- (a) owns, or proposes to own, either directly or indirectly, a minimum of ten percent of the shares in an approved category of business in the Islands through which he or she has established, or will establish, a substantial business presence in the Islands; or
- (b) proves to the satisfaction of the Director of WORC that he or she is or will be employed in a senior management capacity of an approved category of business in the Islands,

(2015 Revision)

(2018 Revision)

may apply to the Director of WORC for a Residency Certificate (Substantial Business Presence) but such Certificate shall not confer any right to a licence under the Local Companies (Control) Law (2015 Revision) or the Trade and Business Licensing Law (2018 Revision).

(2) For the purposes of this section, the expressions “approved category of business”, “senior management capacity” and “substantial business presence” shall have the meanings assigned to them in the Regulations.

(3) Where the Director of WORC is satisfied that -

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

Director of WORC may, taking into account the views of the Department of Commerce and Investment -

- (i) in the case of an applicant who proposes to become a shareholder in an approved category of business as referred to in subsection (1)(a) but does not meet the shareholding or substantial business presence requirements or has not yet obtained all required licences, issue an Approval-in-Principle Residency Certificate (Substantial Business Presence) valid for six months; or
- (ii) in the case of -
 - (A) an applicant under subsection (1)(b);
 - (B) an applicant under subsection (1)(a) who already meets the shareholding and substantial business presence requirements; or

- (C) the holder of an unexpired Approval-in-Principle Residency Certificate (Substantial Business Presence) who now meets all shareholding and substantial business presence requirements and has obtained all required licences,

issue a Residency Certificate (Substantial Business Presence) valid for twenty-five years.

(4) A Certificate issued under subsection (3)(ii) shall be renewable on application and at the discretion of the Director of WORC.

(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 in which he or she is an owner or is employed in a senior management capacity in an occupation approved by the Director of WORC.

(6) The spouse and dependent children (where applicable) of the holder of an Approval-in-Principle Residency Certificate (Substantial Business Presence) shall be granted a Substantial Business Presence (Dependant's) Certificate, the holder of which is permitted, subject to this section, to reside in the Islands.

(7) Upon the death of the holder of an Approval-in-Principle Residency Certificate (Substantial Business Presence) or a Residency Certificate (Substantial Business Presence) or upon the dissolution of his or her marriage, the right of the dependent spouse to reside in the Islands shall cease after a period of one year from the date of the death or the dissolution unless-

- (a) the spouse can demonstrate to the satisfaction of the Director of WORC that he or she can support himself or herself and any dependent children without having to become gainfully occupied in the Islands; or
- (b) the holder is granted permission to remain under any other provision of this Law.

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

(9) Where there is a change in the number of children who are dependants of the holder of a Certificate issued under this section or where the holder marries or divorces subsequent to the issue of the Certificate, or changes his or her occupation within the business, the holder shall so inform the Director of WORC

of the fact and the Director of WORC may amend the Certificate accordingly and subject to such conditions as Director of WORC may, in his or her absolute discretion, determine.

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

- (a) the holder's permission to operate or work in the business has not been lost as a result of the revocation or non-renewal of a required licence; and
- (b) the holder was physically resident in the Islands for a minimum of ninety days in aggregate in the preceding calendar year.

(11) The holder of a Certificate issued under this section may at the discretion of the Director of WORC have his or her right to reside in the Islands revoked if -

- (a) the holder's ability to operate or work in the business to which the Certificate relates is lost as a result of the revocation or non-renewal of a required licence;
- (b) the holder was not physically resident in the Islands for a minimum of ninety days in aggregate in any calendar year;
- (c) the business in relation to which the certificate was granted no longer exists;
- (d) the holder ceases to comply with the provisions of subsection (1);
- (e) the holder fails to pay the prescribed fees in respect of himself or herself, or his or her dependants within thirty days of the due date; or
- (f) in the opinion of the Director of WORC, any of the matters referred to in section 51(1)(a) to (j) applies to the holder or his or her spouse.

General provisions
relating to loss of
permanent residency

51. (1) The Board or the Director of WORC may, in respect of any person who has been granted permission to reside permanently in the Islands, revoke such permission where-

- (a) the person organises or engages in subversive political activity, or organises, causes or promotes racism within the Islands or elsewhere;
- (b) the Board or the Director of WORC is satisfied that the information given in the person's application for permission to remain permanently in the Islands was false in a material particular or concealed a material fact;
- (c) the person has been convicted of an offence against the laws of the Islands;

- (d) the person has been convicted of an offence under the laws of another country, the nature of which offence would, in the opinion of the Board or the Director of WORC make his or her continued presence in the Islands contrary to the public interest;
 - (e) the person becomes destitute;
 - (f) the person becomes mentally disordered or mentally defective as defined in the Mental Health Law, 2013;
 - (g) the person is medically certified to be suffering from a communicable disease that makes his or her continued residence in the Islands dangerous to the community;
 - (h) the person is reasonably believed-
 - (i) to be a prostitute and to have come to the Islands for the purpose of prostitution; or
 - (ii) to be living on, or receiving the proceeds of prostitution;
 - (i) the person fails to maintain the level of financial investment stated in his or her application for permission to remain permanently in the Islands;
 - (j) the person fails to make the annual declaration in respect of himself or herself, his or her dependants, and other prescribed matters, as required by section 37(12);
 - (k) the person is or has been working in an occupation not specified in his or her Certificate;
 - (l) either the Board or the Director of WORC is of the opinion that the person is no longer supporting, or able to support, a dependant previously included in the grant of permanent residence;
 - (m) the person is delinquent, for a period of more than ninety days, with respect to the payment of prescribed fees relating to the right to reside permanently in the Islands;
 - (n) the person is deemed by the Cabinet to be an undesirable inhabitant of the Islands; or
 - (o) the person has been ordinarily resident outside the Islands continuously for a period of one year or more.
- (2) The offence referred to in subsection (1)(d) must have been an offence that would be recognised as an offence in the Islands.

(3) Where the substantive holder of permanent residence loses his or her right to permanent residence under this Law, a person who had acquired permanent residence and a Residency and Employment Rights Certificate by virtue of his or her being a dependant of the substantive holder, shall be allowed to make representations to the Board or the Director of WORC on his or her own behalf as to why he or she should not lose his or her right to permanent residence

and the Board in its discretion or the Director of WORC in the discretion of the Director of WORC shall determine the matter.

Qualification for legal and ordinary residence in Part 6

52. In relation to the qualification for legal and ordinary residence referred to in this Part -

- (a) where any question arises as to whether a person was or was not, during any material period, legally and ordinarily resident in the Islands, such questions shall be decided by the Board or the Director of WORC; and
- (b) nothing in this subsection shall have effect so as to preclude any person from appealing to the Immigration Appeals Tribunal under section 21 on the grounds that the Board or the Director of WORC came to the wrong decision on the question of whether during any material period he or she was or was not legally and ordinarily resident in the Islands.

PART 7 - GAINFUL OCCUPATION OF NON-CAYMANIANS

Persons exempted

53. (1) This Part does not apply to -

- (a) (i) a person employed by the Government of the Islands in respect of his or her employment;
- (ii) a person employed in the Islands by the Government of the United Kingdom;
- (iii) a consular officer and his or her staff;
- (iv) an accredited representative or agent of a government of any part of the Commonwealth; or
- (v) a member of Her Majesty's armed forces;
- (b) any person who may, from time to time, be declared by the Cabinet to be exempt for any purpose either unconditionally or subject to such conditions as may be prescribed;
- (c) a member of the crew of any vessel that does not operate full-time in the Islands, while engaged in his or her duties as such;
- (d) the beneficial owner of up to two units of property whose lawful presence in the Islands is to facilitate rental or lease arrangements in respect of those units and whose spouse does not own, operate or have an interest in those units; or
- (e) such other class or classes of persons as may, from time to time, be prescribed.

(2) A certificate issued by the Governor, acting in the Governor's discretion, shall be final in determining whether or not a person falls within one of the categories (i) to (v) referred to in subsection (1)(a).

54. Sections 58(2)(b) and (c), (3)(b) and (c) and (4), 59, 60, 63(10)(f) and 65 shall not apply in the case where the employer is a special economic zone developer or a special economic zone enterprise operating in a special economic zone for which a career development bureau has been established.

Provisions not applicable to special economic zone developer and special economic zone enterprise

55. (1) Subject to subsection (2), no person shall carry on gainful occupation in the Islands unless -

Who may be gainfully occupied

- (a) the person is Caymanian;
- (b) the person has acquired permanent residence with a right to work under this or any earlier law;
- (c) the person has acquired the right to reside and to work in the Islands as a result of the issue of a Residency and Employment Rights Certificate;
- (d) the person is authorised to do so by a work permit granted under this or any earlier law; or
- (e) the person is a person entitled to work under any other provision of this Law.

(2) No person shall carry on gainful occupation in the Islands, in respect of any restricted area of employment, unless -

- (a) the person is Caymanian;
- (b) the person has acquired permanent residence with a right to work under this or any earlier Law;
- (c) the person has acquired the right to remain and to work in the Islands as a result of the issue of a Residency and Employment Rights Certificate;
- (d) the person is the parent of a Caymanian under the age of eighteen;
- (e) the person is the holder of a work permit issued under section 38(7) or issued in accordance with a quota fixed by the Cabinet under section 61(2);
- (f) the person is a person whose employment under a temporary work permit is, in the opinion of the Director of WORC, justified due to exceptional circumstances; or
- (g) the person is a person whose employment is, in the opinion of the Work Permit Board, the Business Staffing Plan Board or the Cayman Brac and Little Cayman Immigration Board, justified due to exceptional circumstances,

but where, at the date of commencement of the Immigration (Amendment) Law, 2013, in respect of such person -

- (i) a work permit is in force, the person may continue to work under the terms and conditions of the permit until its expiration; or
- (ii) an application for a work permit was received but did not come before the Work Permit Board, the Business Staffing Plan Board, the Cayman Brac and Little Cayman Immigration Board or the Director of WORC until after that date, then the relevant Board or the Director of WORC, as the case may be, shall give consideration to such application using the law that was in effect immediately before that date.

Application for work permit

56. (1) In this Part, unless the context otherwise requires, a reference to the Director of WORC in relation to the granting or renewal of work permits shall be construed as including a reference to anyone specifically designated by the Director of WORC to perform those duties.

(2) All or any of the powers conferred upon the Director of WORC under subsection (5) may be delegated by the Director of WORC to any officer of the staff of WORC.

(3) A person who seeks to be self-employed or a prospective employer of any person may apply for a work permit or the renewal thereof -

- (a) to the Work Permit Board, the Business Staffing Plan Board or the Director of WORC, as the case may be, where the application is for gainful occupation in Grand Cayman; or
- (b) to the Cayman Brac and Little Cayman Immigration Board where the application is for gainful occupation in Cayman Brac or Little Cayman.

(4) An application for the grant or renewal of a work permit shall be in the prescribed form and accompanied by -

- (a) the administrative filing fee, the work permit fee and where applicable the dependant fee and repatriation fee and such documentary evidence as may be prescribed; and
- (b) a written undertaking by the worker to submit to being fingerprinted and to the fingerprints being recorded electronically.

(5) Notwithstanding anything contained in this Law, the Director of WORC or the designate of the Director of WORC shall process applications and otherwise make determinations in respect of -

- (a) the grant or renewal of a work permit;

- (b) the grant of a work permit under section 66(10); and
- (c) an amendment to a work permit.

(6) For the avoidance of doubt the Director of WORC or the designate of the Director of WORC may amend but may not grant or renew a Business Staffing Plan.

(7) A delegation under subsection (2) -

- (a) shall be in writing or if made orally shall be reduced to writing as soon as possible afterwards;
- (b) may be made subject to such limitations and conditions as are specified in the instrument of delegation; and
- (c) may be revoked at any time by the grantor.

(8) Where the Director of WORC or the designates of the Director of WORC entertain an application under subsection (3) it shall be the responsibility of the Director of WORC or their responsibility to record and keep all minutes of the meetings and proceedings, including decisions taken.

57. In performing the functions of granting or renewing work permits, sections 58, 61, 63, 67 and 68 with necessary amendments shall be construed as applying also to the Cayman Brac and Little Cayman Immigration Board.

Application of certain sections to Cayman Brac and Little Cayman Immigration Board

58. (1) The Work Permit Board, the Business Staffing Plan Board, the Cayman Brac and Little Cayman Immigration Board or the Director of WORC in considering an application under section 56 -

Consideration of application for work permit by Board etc

- (a) shall, in respect of an application for a grant; or
- (b) may, in respect of an application for a renewal,

subject to any general directions which the Cabinet may, from time to time, give in respect of the consideration of such application, take into account the matters listed in subsections (2) to (4).

(2) In relation to the prospective employer, that -

- (a) the prospective employer has demonstrated the prospective employer's genuine need to engage the services of the prospective worker;
- (b) the prospective employer has, unless the prospective employer has been exempted by the Cabinet or by the Board, sought, by advertising in at least two issues for two consecutive weeks in a local newspaper or in accordance with published directives of WORC, to ascertain the availability of any one or more of the following in the order in which they are listed -

- (i) a Caymanian;
 - (ii) the spouse of a Caymanian;
 - (iii) the holder of a Residency and Employment Rights Certificate; and
 - (iv) a person legally and ordinarily resident in the Islands who is qualified and willing to fill the position; and
- (c) in the case of an application in respect of a professional, managerial or skilled occupation, the Board or the Director of WORC, as the case may be, is satisfied as to the extent to which the prospective employer has established adequate training or scholarship programmes for Caymanians.
- (3) In relation to the worker -
- (a) the worker's character, reputation and health, and where relevant, the character, reputation and health of his or her dependants;
 - (b) the worker's professional and technical qualifications and his or her experience and competence to undertake the position applied for;
 - (c) the economic and social benefits which the worker may bring to the Islands;
 - (d) the sufficiency of the resources or the proposed salary of the worker and, where the worker's spouse is employed within the Islands, those of the worker's spouse, and his or her or their ability to adequately maintain his, her their dependants;
 - (e) the worker's facility in the use of the English language; and
 - (f) the location, type and suitability of the accommodation available for the worker and his or her dependants, if any, throughout the term of the work permit.
- (4) Generally -
- (a) the protection of local interests and in particular of Caymanians, including without limitation and where applicable, the provisions set out in section 58(2)(c);
 - (b) the availability of the services of a suitable person already legally and ordinarily in the Islands; and
 - (c) the requirements of the community as a whole, the demographics referred to in section 30(j) and such other matters that may arise from the application.
- (5) A person who, when making an application under section 56 to the Board or the Director of WORC, wilfully -
- (a) withholds information that a Caymanian, the spouse of a Caymanian or the holder of a Residency and Employment Rights

Certificate has applied for the position for which a work permit is sought; or

- (b) provides inaccurate or incomplete information with respect to paragraph (a) in an attempt to deceive the Board or Director of WORC either by act or omission,

commits an offence and is liable on summary conviction in respect of the first offence to a fine of twenty thousand dollars and to imprisonment for one year; and in respect of a second or subsequent offence to a fine of thirty thousand dollars and imprisonment for two years.

(6) General directions given under this section shall be published in the Gazette.

59. (1) Every company, firm or other business enterprise which employs fifteen or more persons on work permits, shall, submit to the Business Staffing Plan Board, a Business Staffing Plan in accordance with Schedule 3 to the Regulations. Business Staffing Plan

(2) Every company, firm or other business enterprise, other than those referred to in subsection (1), carrying on business within the Islands shall, as of the date they commence employing fifteen or more persons on work permits, submit to the Business Staffing Plan Board, a Business Staffing Plan in accordance with Schedule 3 to the Regulations within six months of such date.

(3) Every company, firm or other business enterprise which has no or fewer than fifteen persons on work permits, may submit to the Business Staffing Plan Board, a Business Staffing Plan in accordance with Schedule 3 to the Regulations.

(4) Where a Business Staffing Plan Certificate is about to expire, its holder shall apply in the prescribed manner and form for the renewal of the holder's Business Staffing Plan and the holder shall not be regarded as being in breach of subsection (1) or (2) if the application for the renewal of the holder's Plan was submitted before the date of the expiration of the certificate; and, where the certificate expires prior to the renewal of the holder's Plan, the holder shall be entitled to operate under the terms and conditions of the Plan pending the renewal.

(5) Subject to subsection (6), neither the Work Permit Board, the Cayman Brac and Little Cayman Immigration Board nor the Director of WORC may entertain an application for a work permit by way of grant or renewal, where the applicant is in breach of subsection (1) or (2); and, where the application is in respect of a worker who was employed on a work permit on the date of the

application, the worker's right to be engaged in gainful occupation shall cease upon the expiration of the work permit notwithstanding section 68(2), except that upon the applicant filing his or her Business Staffing Plan, notwithstanding that it has been filed late, the granting or renewing of work permits by the entities referred to in this subsection shall resume for that applicant.

(6) Notwithstanding subsection (5), where an application for a Business Staffing Plan is submitted after any deadline provided for in this section, it shall be accompanied by a fee amounting to double that which would otherwise have been paid if the application had been submitted within time.

(7) The Business Staffing Plan Board or the Director of WORC may, upon the written application of the holder of a Business Staffing Plan Certificate, vary or amend the Business Staffing Plan to which the certificate relates.

(8) Where a company, firm or other business enterprise has submitted a Business Staffing Plan to the Business Staffing Plan Board as required by subsection (1) or (2) but the Work Permit Board, the Cayman Brac and Little Cayman Immigration Board and the Director of WORC are of the opinion, having first made enquiries of the Business Staffing Plan Board and the applicant for the Business Staffing Plan Certificate, that the applicant has failed or refused to take reasonable steps to pursue and conclude such application, then the Work Permit Board, the Cayman Brac and Little Cayman Immigration Board and the Director of WORC may, upon giving not less than ninety days' notice to the applicant of their intention so to do, cease granting and renewing work permits submitted by the applicant.

(9) Further to subsection (8), where the application is in respect of a worker who was employed on a work permit on the date of the application, the worker's right to be engaged in gainful occupation shall cease upon the expiration of the work permit as notwithstanding section 68(2).

Responsibility of the Board in processing applications for professional employees

60. In considering an application for a work permit for a professional employee, the Work Permit Board, the Business Staffing Plan Board, the Cayman Brac and Little Cayman Immigration Board or the Director of WORC as the case may be, shall -

- (a) consult with the appropriate authority;
- (b) have regard to the expressed views of the appropriate authority in respect of the requirements in the Islands of professional employees in the particular profession;
- (c) notify the appropriate authority of the details of every work permit applied for, whether granted or not;

- (d) not, except in exceptional circumstances, grant a work permit to a person wishing to enter into self-employment as a professional employee; and
- (e) not grant a work permit to a professional employee unless -
 - (i) the appropriate authority has satisfied the Board that the applicant has applied for and been granted registration or such other approval, consent or permission as may be required under the relevant law, as a practitioner in his or her field; and
 - (ii) the applicant is legally and ordinarily resident in the Islands or intends to be so legally and ordinarily resident.

61. (1) The Cabinet may, by Order, designate certain professions, trades, businesses, occupations, vocations and types of employment, as restricted areas of employment for the purposes of section 55(2) but an Order made under this subsection has no effect unless it is subsequently approved by the Legislative Assembly.

Restricted areas of employment

(2) The Work Permit Board, the Business Staffing Plan Board or the Cayman Brac and Little Cayman Immigration Board shall in respect of restricted areas of employment, grant or renew work permits in accordance with a quota to be fixed by the Cabinet, which quota shall be gazetted.

62. The Board or the Director of WORC, as the case may be, shall give priority to employers who show a special need for work permits for domestic helpers.

Employers in need of domestic helpers

63. (1) Subject to section 66, the Board or the Director of WORC in considering an application under section 56 may -

Grant or refusal of work permit

- (a) refuse an application for a work permit; or
- (b) grant such an application with or without limitations or conditions.

(2) Subject to section 66, on the grant or renewal of an application under section 56, the work permit applied for shall be issued in the prescribed form for such period of up to three years generally, as the Board or the Director of WORC may determine, save that the Board or the Director of WORC, may grant a work permit for a period of up to -

- (a) one year for temporary workers or seasonal workers;
- (b) five years to domestic helpers, teachers, doctors, nurses and ministers of religion;
- (c) five years to workers for positions authorised by the Board in a Business Staffing Plan Certificate; and

- (d) five years to a director, officer or employee of a special economic zone developer or special economic zone enterprise operating in a special economic zone for which a career development bureau has been established,

and the work permit shall be endorsed with particulars of the conditions and limitations, if any, imposed by the Board or the Director of WORC on the grant or renewal.

(3) Upon granting an application under section 56 with respect to a worker of eighteen years of age or older, the Board or the Director of WORC shall cause to be taken and retained electronically, the worker's fingerprints.

(4) Neither the Board nor the Director of WORC shall, except in exceptional circumstances, grant a work permit to a person wishing to enter self-employment.

(2018 Revision)

(2015 Revision)

(5) The granting under this section of a self-employed work permit shall confer on the applicant the right to be granted, on the payment of the prescribed fee under the Trade and Business Licensing Law (2018 Revision), any licence required under that Law for the carrying on of the gainful occupation authorised by the work permit, but such grant shall not of itself confer any right to a licence under the Local Companies (Control) Law (2015 Revision).

(6) A work permit shall contain the names of any dependants of the employee in respect of whom permission to reside with the employee during the currency of the work permit has been granted by the Board or the Director of WORC.

(7) The Board or the Director of WORC may vary or modify the terms of a work permit upon application made by the employer or the worker and, in considering such application, shall take into account the applicable provisions of section 58(2) to (4).

(8) Where a work permit is granted in respect of the gainful occupation of a person, the earlier gainful occupation of whom had been authorised by a previous work permit, such grant shall not give rise to any right to, or any expectation of a right to, any further new work permit thereafter, and the Board or the Director of WORC may, in any case, refuse an application for such further new work permit without any right arising to the applicant concerned to appeal against such refusal either to the Immigration Appeals Tribunal or the Grand Court on the grounds that the previous grant gave rise to any right or expectation of any right to a further work permit.

(9) Where a person has been continuously authorised by a gainful occupation licence or a temporary gainful occupation licence granted under any earlier law, or a work permit, to be gainfully employed and by virtue of such authorisations the person or any other person has been lawfully legally and ordinarily resident in the Islands for any period which is one of the qualifications for application for a grant of the right to be Caymanian or the right permanently to reside in the Islands, such residence shall not of itself give rise to any right or expectation of a right to such a grant.

(10) An application for the grant or renewal of a work permit may be refused and a work permit may be revoked by the Board or the Director of WORC on any of the following grounds -

- (a) that there is refusal or inability on the part of the applicant and the applicant's spouse, if relevant, to properly support his or her dependants;
- (b) that there are reasonable grounds for suspecting that the applicant uses or is involved in illegal drugs;
- (c) that the applicant has a background of subversive political activity, racism or any illegal activity;
- (d) that the applicant has committed an act of insolvency or bankruptcy or been as a shareholder or director of any company or other entity that has been the subject of liquidation especially where the creditors have been adversely affected;
- (e) that the applicant has been convicted of an offence in the Islands or elsewhere or has been fined in the Islands by an officer of the rank of Assistant Director of WORC or above;
- (f) that the applicant has been promoted or re-designated by his or her employer without the prior approval of the Board or the Director of WORC;
- (g) that the applicant is in the Islands as a tourist visitor;
- (h) that the Board or the Director of WORC considers that the applicant has not fully met any of the applicable requirements of section 58;
- (i) for any of the applicable matters referred to in section 58(2) to (4) that the Board or the Director of WORC in its discretion considers appropriate; or
- (j) that the applicant failed to give the written undertaking referred to in section 56(4)(b).

(11) Prior to the revocation of, or refusal to renew, a work permit -

- (a) all objections shall be considered;
- (b) the applicant shall be given notice of all objections and allegations relating to the applicant and the applicant shall be

afforded an opportunity to make written representation to the Board in respect thereof or, at the discretion of the Board, to appear before the Board to address such objections and allegations;

- (c) an inquiry shall be made into the applicant; and
- (d) all allegations that are taken into account in considering the application shall so far as reasonably practicable be corroborated

and a full investigation of such allegations shall so far as reasonably practicable, be carried out.

Change of employer

64. During the currency of a work permit, the holder of that permit may not change his or her employer unless -

- (a) the Board, including the Cayman Brac and Little Cayman Immigration Board, or the Director of WORC believes there are special circumstances; or
- (b) the circumstances of the holder's employment are within a description or class of descriptions specified in a direction made by the Cabinet.

Prohibition against unauthorised promotion or re-designation

65. During the currency of a work permit, the holder of that permit may not be promoted or re-designated without having applied for and received the approval of the Board or the Director of WORC, and the Board or the Director of WORC in considering the application -

- (a) shall be satisfied that the employer has complied with the requirements of the Business Staffing Plan, if any; and
- (b) shall have regard to the effect that such promotion or re-designation would have on the opportunity for advancement to that level of qualified Caymanians already engaged in the same profession or capacity within that business enterprise.

Term Limits

66. (1) Subject to subsections (4), (6), (8), (10) and (11), the term limit of a worker shall be nine years, in any case commencing with -

- (a) the date on which the worker first entered the Islands, if the worker first entered the Islands as a work permit holder; or
- (b) the date on which the worker is granted a work permit, if the worker first entered the Islands as a tourist visitor,

whether such permits are granted and held continuously or not, and upon the expiration of the worker's term limit, the worker shall leave the Islands and neither the Board nor the Director of WORC shall grant or renew a work permit for the worker until the worker has ceased to hold a work permit for not less than one year after the worker has left the Islands.

(2) A worker who leaves the Islands before the expiration of the worker's term limit and who has ceased to hold a work permit for not less than one year, may apply for and be granted a new work permit and shall thereupon have a new term limit as provided for in subsection (1).

(3) Where a worker has left the Islands prior to the expiration of his or her term limit and has ceased to hold a work permit but either he, she or his or her employer wishes to apply for a new work permit prior to his or her having ceased to hold a work permit for one year or more, then the worker or his or her employer may apply for and be granted new work permits but the worker's term limit shall remain as if his or her employment had not been interrupted, save that should the worker return after the commencement of the Immigration (Amendment) (No. 2) Law, 2013 the worker's term limit shall be as stated in subsection (1) and, upon the expiration of such term limit, the worker shall be subject to the provisions of subsection (1) unless the worker is allowed to remain under some other provision of the Law.

(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 37 during the currency of a work permit the person may apply to the Director of WORC for permission -

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

and such permission may be granted or renewed until such time as his or her application or any appeal arising from it is determined.

(5) Any permission granted under subsection (4) may be varied by the Director of WORC to add or remove a dependant or may be revoked on any of the grounds listed under section 63(10).

(6) A person who intends to work by operation of law shall first submit, or cause to be submitted, his or her passport to WORC and his or her employer shall pay annually all fees that would have been paid in respect of the person had the person continued to be employed on a work permit and thereupon his or her passport shall be endorsed acknowledging him or her to be working by operation of law.

(7) A person who fails to comply with subsection (6) commits an offence.

(8) A person working under permission granted under subsection (4) shall, in the event that -

- (a) the person's application for permission to reside permanently in the Islands has been unsuccessful and no appeal has been filed within the time allowed for doing so; or
- (b) having filed for permission to reside permanently in the Islands has been unsuccessful and all further appeals have been exhausted

and in either event his or her term limit has expired, be entitled to continue receiving permission under subsection (4) for a period not exceeding ninety days from the date of the communication to him or her of such refusal or the determination of any appeal or proceedings arising therefrom, whichever shall be the later, and after such period expires he or she shall leave the Islands; and neither the Board nor the Director of WORC shall issue or renew a work permit for the person until the person has ceased to hold a work permit for not less than one year thereafter.

(9) A person who, as an approved dependant, accompanies to the Islands a worker or employee -

- (a) of the Government of the Islands; or
- (b) of the Government of the United Kingdom, in the Islands,

may become a worker but his or her term limit shall be deemed to have commenced on the date on which he or she was first within the Islands as an approved dependant and he or she shall be thereafter subject to the provisions of this section as if he or she had first entered the Islands as a worker.

(10) A person-

- (a) who is married to -
 - (i) a worker;
 - (ii) a person employed by the Government of the Islands;
 - (iii) a person employed by the Government of the United Kingdom, in the Islands;
 - (iv) a person employed by any statutory authority or Government owned company, the employees of which are by law not required to hold work permits; or
 - (v) a person who is working by operation of law with the permission granted under subsection (4) or (8),

and whose right to work in the Islands will expire before that of his or her spouse;

- (b) whose marriage is, in the opinion of the Board or the Director of WORC, not a marriage of convenience;

- (c) who is not living apart from his or her spouse under a decree of a competent court or under a deed of separation; and
- (d) who has not lived apart from his or her spouse for an aggregate period of three months out of the twelve months immediately preceding the application for the grant in circumstances which, in the opinion of the Board or the Director of WORC, have led it to conclude that the marriage has broken down,

may, during the currency of the spouse's work permit or contract of employment with the Government of the Islands or with the Government of the United Kingdom in the Islands or in the period during which his or her spouse is working by operation of law with permission granted under subsection (4) or (8), apply for the grant of a work permit or the renewal of an existing work permit; and the Board or the Director of WORC may -

- (e) grant the application for a period not exceeding that of the spouse's work permit or any renewal thereof;
- (f) grant the application for a period not exceeding that of the spouse's contract of employment; or
- (g) grant the application for a period not exceeding that of the period for which his or her spouse is working by operation of law or under permission granted under subsection (4) or (8).

(11) A person working under subsection (10) whose spouse is granted permanent residence under section 37 and who has applied for a Residency and Employment Rights Certificate as the spouse of a permanent resident under section 37(16) will not lose his or her right to work and may continue to be granted work permits until the final determination of his or her application where that application was submitted within ninety days of the grant of his or her spouse's permanent residence.

(12) Where a work permit has been granted to a worker under subsection (10) and the worker's spouse ceases to have the right to work and is required to leave the Islands, the work permit granted shall automatically terminate on the date on which the worker's spouse ceases to have the right to work and the worker shall leave the Islands and not be entitled to the grant or renewal of any further work permits until the worker has ceased to hold a work permit for not less than one year after the worker has left the Islands.

(13) The Board or the Director of WORC, in calculating under subsection (10)(d), the period of time that an applicant has spent apart from his or her spouse, shall not take into account those occasions when either spouse's absences were because of medical, educational, business, vacation or other analogous circumstances.

(14) On the grant or renewal of a work permit, the Board or the Director of WORC shall notify the worker and the worker's employer of the worker's term limit and its expiration date for the purposes of this Law.

(15) Subsection (1) does not apply to a person who had and continues to have, his or her normal place of work and abode for the time being outside the Islands and who enters the Islands to work on a work permit for a specific purpose or occasion only and leaves the Islands at the conclusion thereof or upon the expiration of the work permit, whichever first occurs, including -

- (a) legal counsel acting in any matter whether before a court in the Islands or otherwise;
- (b) visiting doctors or other specialists in the medical field;
- (c) skilled specialist tradespersons;
- (d) travelling salespersons; or
- (e) other persons in similar circumstances.

Work permit fees

67. (1) An application for a work permit shall be accompanied by the work permit fee and the application fee, which fees shall be paid into General Revenue; but, where the application is unsuccessful, the notification of refusal shall be accompanied by an authorisation for a refund of the work permit fee to the applicant.

(2) Notwithstanding subsection (1), no fee shall be charged in respect of a work permit authorising the gainful occupation of -

- (a) children and young persons under the age of eighteen; or
- (b) such other class or classes of persons as may be prescribed from time to time.

(3) Where a work permit authorises the gainful occupation of a worker while the worker is in the service of an employer, any fees payable under subsection (1) in respect of such work permit, or any prescribed security in respect of the entry of that worker into the Islands, shall be paid by the employer, and it shall be an offence for an employer -

- (a) to seek or receive from any such worker any moneys or other compensation or benefit as reimbursement of, or contribution towards; or
- (b) to make any deduction from any remuneration due by him to any worker on account of, or in respect of, those fees or that security.

(4) A person who contravenes subsection (3) commits an offence.

68. (1) Subject to subsection (3), a person who, in contravention of this Part, engages in gainful occupation or fails to comply with any condition or limitation contained in a work permit commits an offence and is liable on summary conviction in respect of a first offence to a fine of five thousand dollars and to imprisonment for one year and in respect of a second or subsequent offence to a fine of ten thousand dollars and to imprisonment for two years.

Offence to engage in gainful occupation or to employ persons in contravention of this Part

(2) Where an offence is committed under this Law, any officer may, subject to such conditions as the officer thinks fit, stay or compound any proceeding for that offence; and the conditions may include payment of a levy, being not less than twice and not more than five times the amount of any fees that would have been payable had the provisions of this Law been observed; and in the event that no fees are payable or would have been payable under this Law, any officer at or above the rank of Deputy Director of WORC may impose a fine of up to five thousand dollars.

(3) Subject to subsection (4), where during the currency of a work permit an application has been made to the Board or the Director of WORC 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 Director of WORC; or
- (b) has been refused by the Board or the Director of WORC and that refusal has been appealed under section 21 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 the worker awaits a notification of the determination of his or her application or his or her appeal, except that no worker shall be entitled to work under the provisions of this subsection beyond the date of the worker's term limit.

(4) Where an application has been made to the Board, or the Director of WORC for a work permit and the application is refused or cancelled, then the employer is liable to pay the following fees in respect of any period worked by the worker between the expiration date of the worker's previous work permit and the date of refusal or cancellation, namely -

- (a) where the period is six months or less the amount payable shall be half the annual fee that would have been paid had the work permit been approved;

- (b) where the period is more than six months but not more than twelve months the amount payable shall be the annual fee that would have been paid had the work permit been approved; and
- (c) where the refusal is appealed, the amount payable shall be the equivalent of half the annual fee for every six month period or part thereof worked by the worker pending the outcome of the worker's appeal commencing upon the expiration of the six month period being worked at the time notice of appeal is filed.

(5) A person who employs another in contravention of this Law or in contravention of any condition or limitation contained in a permit commits an offence and is liable on summary conviction in respect of a first offence to a fine of twenty thousand dollars and to imprisonment for one year and in respect of a second or subsequent offence to a fine of thirty thousand dollars and to imprisonment for two years.

(6) It is a defence for a person charged with an offence under this section to prove that he or she had made reasonable enquiries to determine whether he or she was in contravention of this Part, and had no reasonable ground for believing, and did not in fact believe that he or she was in such contravention.

(7) For the purposes of subsection (4), a defendant who is charged with an offence under this section shall be deemed not to have made reasonable enquiries and not to have had reasonable grounds for believing that he or she was not in contravention of this Part unless the defendant -

- (a) had inspected the work permit or permission to remain in the Islands, issued to the person concerned;
- (b) had checked the work permit or the permission-to-remain stamp in the passport of the person concerned to ensure that the particulars materially corresponded with those set out in the work permit or the permission to remain; and
- (c) had checked with -
 - (i) a named employee of WORC to determine that the work permit or permission to remain was valid at the material time and that the person concerned was not, and would not be, in breach of this Law; or
 - (ii) the employer to verify that the person concerned was employed by the employer and that the particulars of the person concerned corresponded with the records of the employer, where the name of the employer of the person concerned was specified in the work permit.

(8) For the purposes of this section, a person carrying on or employed in any profession, trade, business or other avocation in or with relation to the Islands shall be deemed to do so for gain or reward until the contrary is proved.

(9) A person who acts in contravention of this section, or is reasonably suspected of having so acted, may be taken into custody without warrant by an officer or constable.

(10) Where an officer is empowered to take a person into custody for an offence against this Law or on reasonable suspicion of having committed such an offence, the officer in charge of the place for the reception of arrested persons to which that person is brought, shall at once enquire into the case and if, on completion of the enquiry, there is no sufficient reason to believe that the person has committed any offence, that person shall be released forthwith by an officer..

(11) A person who, not being authorised to engage in gainful occupation, is found in the Islands, in any place of work, or on or within the vicinity of any place where work is in the process of being done or is intended to be done and at the time has in his or her possession or under his or her control any article for use in the course of or in connection with any gainful occupation, without reasonable excuse, shall be deemed to have such article with him or her for the purpose of work in connection with some gainful occupation unless the contrary is proved.

(12) In this section -

“place of work” includes any construction site, cleared land, woodland, field, private dwelling, commercial building, vessel or vehicle; and

“article” means any instrument used in or, reasonably suspected to be intended for use in connection with any gainful occupation, in a manner and in any place referred to in subsection (7).

69. (1) The Director of WORC shall keep and maintain a register of all administrative fines and levies imposed under this Law in consequence of the breach of any of its provisions.

Administrative fines and
levies

(2) The register shall contain particulars of-

- (a) the name and address of the person in breach;
- (b) the nature, location and date of the breach;
- (c) any measures taken by the Director of WORC in consequence of the breach; and
- (d) the amount of the fine or levy imposed and the date on which it was paid.

(3) The Director of WORC shall, within fourteen days of the end of each quarter, provide the Cabinet and the Director of Public Prosecutions with the information contained in the register in relation to that quarter.

PART 8 – GENERAL

Marriages of convenience

70. (1) A person who enters into a marriage of convenience commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year.

(2) If a marriage officer has reasonable grounds for suspecting that a marriage will be a marriage of convenience, and fails to report his or her suspicion to the Director without delay and in such form and manner as may be prescribed, the marriage officer commits an offence.

(3) Subsection (2) also applies where a marriage is solemnised in the presence of a marriage officer who, before, during or immediately after solemnisation of the marriage, has reasonable grounds for suspecting that the marriage will be, or is, a marriage of convenience.

Identification cards

71. (1) A person to whom a work permit has been issued under section 63 shall, at the time of the granting of such work permit or permission to engage in a gainful occupation have issued to him or her an identification card.

(2011 Revision)

(2) A person to whom an identification card has been issued under subsection (1) shall produce the card for inspection upon demand being made in such regard by any police constable, an officer under this Law or officer appointed under the Labour Law (2011 Revision), or, if at the time of the making of such demand the identification card is not in the possession of the holder, the person shall produce the same for inspection within forty-eight hours at such place as the person lawfully making the demand shall specify.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

Regulations

72. (1) The Cabinet may make regulations generally for administering this Law and for giving effect to its objects, purposes and intentions, or with respect to any matter or thing by or under this Law that may be or is to be prescribed.

(2) Regulations made under this section may, in particular -

- (a) prescribe the categories of persons to whom WORC may offer training and employment services;

- (b) authorise the taking, in relation to any person who is in custody, of all such steps as may be necessary for photographing, measuring, taking the fingerprints of, or otherwise identifying that person in such manner as may be provided by the regulations;
- (c) prescribe the forms, notices, certificates, licences, permits, warrants, books, registers or other documents to be used and the particulars to be given in connection with this Law;
- (d) prescribe -
 - (i) the different types of work permits which may be issued;
 - (ii) the persons by whom they may be issued;
 - (iii) the procedure relating to dealing with such permits;
 - (iv) all other terms, conditions and other matters which are connected with such permits;
- (e) prescribe the financial standing requirements which persons holding certain types of permanent residence under this Law must have;
- (f) prescribe the fees to be payable in respect of any application, licence or permit granted or any certificate or other document issued under this Law and the circumstances under which such fees may be abated or waived;
- (g) prescribe the amount and nature of any security to be furnished for the due carrying out of any condition which may be attached to the grant of any licence or permit, or to the issue of any certificate or other document under this Law;
- (h) provide for the submission by a company, firm or other business enterprise, to the Board, of Business Staffing Plans, prescribing the contents of and procedures concerning such plans and the method of granting work permits following approval of such plans; and
- (i) prescribe the penalties that may be imposed for the contravention of regulations, directions and other forms of subordinate legislation made or issued under this Law.

73. The Cabinet may issue policy directions to the Boards and the Immigration Appeals Tribunal for their guidance in the exercise of their respective powers, duties and functions under this Law, and it shall be the duty of the Boards and the Immigration Appeals Tribunal to put into effect and to carry out such directions.

Directions to Boards and the Immigration Appeals Tribunal

74. (1) The Boards, the Immigration Appeals Tribunal, the Director of WORC, any officer, constable or other person lawfully acting in the execution of this Law may -

Power to put questions and require production of documents

- (a) put any question to any person, being a question reasonably required in connection with the proper discharge of their, its or his or her functions under this Law; and
- (b) require any person to produce for inspection any licence, certificate, payroll and other documents relating to gainful employment, permit, work permit identification card or other document which he or she may have in his or her possession or under his or her control, being a document of which the inspection is reasonably required in connection with the proper discharge of such function as aforesaid.

(2) A person who fails without lawful excuse (the proof of which shall be upon the person) to answer fully and truthfully to the best of the person's knowledge and belief any such question, or to produce for inspection any such document, does, without prejudice to section 75, commit an offence.

(3) Any power to require the production of a document for inspection shall be construed as including a power to take copies of such document and to retain such document for a reasonable time for such purpose.

Obstruction of persons acting in execution of Law

75. (1) A person who resists arrest or otherwise wilfully obstructs or impedes any officer, constable or other person acting in the execution of his or her duty under this Law commits an offence.

(2) A person who acts in contravention of this section, or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by a compliance officer or constable.

Offences relating to false documents, etc.

76. (1) A person who -

- (a) in connection with the carrying into effect of any of the purposes of this Law, makes, causes or allows to be made any return, statement or representation which is false in a material particular and which he or she knows to be false or which he or she does not believe to be true;
- (b) without lawful excuse (the proof of which shall be upon him or her) alters, causes or allows to be altered any certificate, licence, permit or other document issued under this Law or any entry in any document lawfully made under this Law: or
- (c) without lawful excuse (the proof of which shall be upon him or her) uses or possesses, or causes or allows to be used or possessed, any forged, altered or irregular passport, visa, certificate or other connected document or any endorsement on any of such documents which has been altered or forged,

commits an offence.

(2) The holder of a Certificate issued under Part 6 applying for a variation of that Certificate to reflect the fact that his or her dependant is engaged in full-time tertiary education in an educational institution shall satisfy the Board or the Director of WORC by way of a written confirmation from the educational institution that the dependant is engaged in a full-time course of study; and it shall be an offence if -

- (a) the dependant is engaged in such education without the variation being approved; or
- (b) the dependant is residing in the Islands on the basis of an approved variation but is not engaged in such education.

(3) A person who acts in contravention of subsection (1), or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by a compliance officer or a constable.

77. A person who, without reasonable excuse, has in that person's possession an immigration stamp or a replica immigration stamp commits an offence.

Possession of
immigration stamp

78. (1) A person shall not provide or purport to provide immigration advice or immigration services for any fee, gain or reward unless the person is a qualified person.

Provision of
immigration services

(2) A person is a qualified person if-

(2018 Revision)

(2015 Revision)

- (a) the person is registered with the Director of WORC or is employed by, or works under the supervision of, such a person;
- (b) the person is a member or employee of a body which is licensed, or exempted by the Trade and Business Licensing Law (2018 Revision), or works under the supervision of such a member or employee; or
- (c) the person is a person admitted to practise as an attorney-at-law under the Legal Practitioners Law (2015 Revision).

(3) Subsection (1) does not apply to a person who -

- (a) is certified by the Director of WORC as exempt (in this section referred to as "an exempt person");
- (b) is employed by an exempt person;
- (c) works under the supervision of an exempt person or an employee of an exempt person; or
- (d) falls within a category of person specified in an order made by the Cabinet for the purposes of this subsection.

(4) A certificate under subsection (3)(a) may relate only to a specified description of immigration advice or immigration services.

(5) Subsection (1) does not apply to a person -

- (a) holding an office under the Crown, when acting in that capacity;
- (b) employed by, or for the purposes of, a Government department, when acting in that capacity;
- (c) acting under the control of a Government department; or
- (d) otherwise exercising functions on behalf of the Crown.

(6) An exemption given under subsection (3)(a) may be withdrawn by the Director of WORC.

(7) A person who acts in contravention of subsection (1) commits an offence.

Registration and exemption by the Director of WORC

79. (1) The Director of WORC shall prepare and maintain a register for the purposes of section 78(2)(a) and (b).

(2) The Director of WORC shall keep a record of the persons to whom the Director of WORC has issued a certificate of exemption under section 78(3)(a).

Punishment for offences for which no penalty is provided

80. A person who commits an offence for which no penalty is provided is liable-

- (a) on summary conviction, in respect of a first offence, to a fine of five thousand dollars and to imprisonment for one year; or,
- (b) on summary conviction, in respect of a second or subsequent offence, to a fine of ten thousand dollars and to imprisonment for two years,

and where any such offence is a continuing offence, the person guilty of the offence shall, in addition to any punishment provided by this section, be liable to a fine of five hundred dollars in respect of each day during which the offence continues.

Offences against Law by corporations, liability of officers, etc.

81. Where a person convicted of an offence against this Law is a body corporate, then every person who, at the time of the commission of the offence, was a managing director, manager, secretary or other officer of the body corporate shall be deemed to be guilty of that offence unless the person proves that the offence was committed without his or her knowledge or that he or she exercised all reasonable diligence, having regard to his or her office, to prevent the commission of the offence.

82. (1) In proceedings taken under, or in connection with, this Law -
- Evidence in proceedings taken under, or in connection with, Law
- (a) the burden of proof that a person has had, at any material time-
 - (i) a particular status for the purpose of this Law;
 - (ii) a particular nationality; or
 - (iii) a particular occupation, or, as the case may be, no occupation,shall be upon that person;
 - (b) a document purporting to set forth an order or direction given under this Law shall be presumed, until the contrary is proven, to constitute the order or direction; and
 - (c) an order or direction given under this Law shall be presumed, until the contrary is proven, to have been validly given and to have been given on the date on which it purports to have been given.
- (2) In subsection (1), a reference to the giving of an order shall be construed as including a reference to the making of an order, to the giving of a direction or a decision and to the imposing of a requirement.
83. (1) The Immigration Law (2015) Revision is repealed.
- Repeal and transitional provisions
- (2) Section 25 of the Interpretation Law (1995 Revision) applies for the purposes of the repeal of the Immigration Law (2015 Revision) and in respect of savings and other transitional matters dealt with by that Law.
- (3) Until regulations are made under this Law to provide for a matter that may be prescribed, the regulations made under the Immigration Law (2015 Revision) including those which relate to Parts VI, VII, VIII of the Immigration Law (2015 Revision) that are in force immediately before the commencement of this Law or the repeal of that Law shall have effect until expressly repealed by this Law or by regulations made under this Law.
- (1995 Revision)
(2015 Revision)
(2015 Revision)
- (4) For the avoidance of doubt, where any permit or certificate issued under the Immigration Law (2015 Revision) or under any prior immigration law is in force on the date of the commencement of this Law, that permit or certificate shall continue in force until its expiration in accordance with the relevant law.
- (5) Where before the date of the commencement of this Law an application is made in respect of a Business Visitor's permit, a temporary work permit or a term limit exemption permit and the application has not been determined on the date of commencement of this Law, the application shall be determined as if this Law had not come into force;

Transition of public officers to staff of WORC
(2018 Revision)

84. (1) A person who is appointed or purported to be appointed prior to the date of the commencement of this Law as a public officer of WORC shall be deemed on that date to have been lawfully appointed and shall continue to be appointed under this Law, subject to the Public Service Management Law (2018 Revision).

(2) A person who is appointed or purported to be appointed prior to the date of the commencement of this Law to the post of Director of WORC shall be deemed, on that date, to have been lawfully appointed and shall continue to be appointed under this Law, subject to the Public Service Management Law (2018 Revision).

Application of general provisions to Cayman Brac and Little Cayman Immigration Board

85. In performing their functions and exercising their powers generally under this Law, sections 75 and 76 with all necessary amendments shall be construed as applying also to the Cayman Brac and Little Cayman Immigration Board.

Conflict with other laws

86. Except as otherwise expressly provided, wherever any provision of this Law or of a regulation is in conflict with any other law or regulation, this Law or regulation shall prevail to the extent of the inconsistency.

Savings of other laws
(1997 Revision)

87. Nothing in this Law shall be construed so as to derogate from or abridge any provision of-

- (a) the Caribbean Development Bank Law (1997 Revision); or
- (b) the Diplomatic Privileges and Immunities Law (1997 Revision),

or any law amending or replacing such laws.

SCHEDULE

Section 32

**WORKFORCE, OPPORTUNITIES AND RESIDENCE CAYMAN LAW,
2018**

CERTIFICATE OF THE RIGHT TO BE CAYMANIAN

THIS IS TO CERTIFY THAT..... of..... has with effect from this day been granted the right to be Caymanian for all purposes of the above Law.

Dated this..... day of....., 20..... .

chairperson of the Caymanian Status and Permanent Residency Board / Cabinet.

