

CAYMAN ISLANDS



Supplement No. _____ published with Gazette No.
dated _____, 2013.

A BILL FOR A LAW TO AMEND THE IMMIGRATION LAW (2013 REVISION) TO REVISE IMMIGRATION POLICY AS IT RELATES TO THE TERM LIMIT, PERMANENT RESIDENCE, KEY EMPLOYEES, HOLDERS OF A TERM LIMIT EXEMPTION PERMIT, AND SPECIALIST CAREGIVERS; TO IMPROVE THE APPEALS PROCESS; TO EXTEND THE POWERS OF THE CHIEF IMMIGRATION OFFICER; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES

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

MEMORANDUM OF OBJECTS AND REASONS

The main object of the Bill is to reconstruct the Immigration Law (2013 Revision) (the principal Law), in relation to term limits, the grant of permanent residence, the expiration of the Term Limit Exemption Permit, the tenure of Specialist Caregivers, the enhancement of the appeals process and the expansion of the scope of the powers of the Chief Immigration Officer. Several other amendments of varying degrees of significance, some consequential others cursory, have been effected.

Clause 1 of the Bill sets out the short title.

Clause 2 amends section 2 of the principal Law to redefine certain expressions.

Clause 3 amends section 7 of the principal Law to extend the functions of the Director of Boards and Work Permits to encompass the supervision of administrative processing of permanent residence.

Clauses 4 to 7 inclusive, either amend or replace sections 14, 15, 16 and 18 of the principal Law to overhaul and reform the appeals process with a view primarily to expediting the disposal of appeals to be heard by the Immigration Appeals Tribunal. These clauses provide, among other things-

- (a) that the appellant shall adhere strictly to the prescribed application process directives and that the failure to do so shall result in the appeal being quashed;
- (b) that for the purposes of communication to the appellant, the time at which the mail is deemed to have been delivered to the recipient is-
 - (i) if sent by post, seven days after the date of dispatch; or
 - (ii) if sent by electronic mail, twenty-four hours after its transmission;
- (c) that frivolous and vexatious appeal applications are discouraged by way of the Immigration Appeals Tribunal having the ability to award costs against the appellants; and
- (d) for the empowerment of the Immigration Appeals Tribunal or the pertinent Board to require the parties to the hearing as well as persons other than the parties to the hearing to address it.

Clause 8 amends section 22 of the principal Law to expand the list of matters to be taken into account by the Chief Immigration Officer when dealing with an

application from the surviving spouse of a Caymanian who is applying for the right to reside permanently in the Islands.

Clause 9 amends section 24 of the principal Law to require the pertinent Board when processing an application for the right to be Caymanian to include among its considerations the applicant's engagement in subversive political activity, racism or any illegal conduct, whether it occurred in the Islands or elsewhere.

Clause 10 amends section 27 of the principal Law to improve the language of one of the conditions under which the spouse of a Caymanian may lose his grant of the right to be Caymanian.

Clause 11 amends section 28 of the principal Law to provide that for the purposes of revocation on criminal conviction, the convicting court may be a court in any jurisdiction but that the offence must be one which would be recognised as such in the Islands.

Clause 12 amends the principal Law to introduce section 28A which would enable the beneficiary of an immigration grant under Parts III or IV to relinquish it by so advising the grantor in writing.

Clause 13 amends the heading of Part IV of the principal Law to make the heading more descriptive of the contents of this Part.

Clause 14 amends section 29 of the principal Law mainly to empower the Chief Immigration Officer to grant permanent residence and to delegate those powers to anyone specifically designated by him to exercise such powers.

Clause 15 repeals and substitutes section 30 of the principal Law to entitle a person who has been legally and ordinarily resident in the Islands for at least eight years but no more than nine years, subject to certain excluded categories of person, to apply for permanent residence for himself and his spouse and dependants. In addition, the clause provides that-

- (a) the holder of a Certificate issued under clause 30(6) shall provide the Board with an annual declaration containing prescribed particulars in respect of himself and his dependants;
- (b) the failure to provide such declaration constitutes an offence as well as a ground for revocation of the Certificate;
- (c) where the grantee of permanent residence is selling any property that was listed in his application for permanent residence in order to purchase alternative property he shall complete such purchase within one hundred and eighty days of the sale and he shall

- inform the Board of the details of the new property and the date on which the transaction was completed;
- (d) both the holder of a Residency and Employment Rights Certificate and his employer now have a duty to report to the Board or the Chief Immigration Officer any change in the holder's employment circumstances and that failure to do so is an offence; and
 - (e) a person who has been legally and ordinarily resident in the Islands for nine years or more on the commencement of the Law for which this is the Bill, shall have a period of ninety days in which to apply for permanent residence.

Clause 16 amends section 31 of the principal Law to remove the requirement for the spouse of a Caymanian to apply to the Chief Immigration Officer for a six month grant of a Residency and Employment Rights Certificate but retains his right to apply for a seven year Certificate which may be granted and is renewable, by either the Board or the Chief Immigration Officer.

Clause 17 amends section 32 as a consequence of the increased powers of the Chief Immigration Officer.

Clause 18 amends section 33 to allow the surviving spouse of a Caymanian whose Residency and Employment Rights Certificate has been revoked to apply within ninety days for the grant of a Certificate in his own right and to work by operation of law pending the outcome of the application.

Clauses 19 and 20 amend sections 34A and 35 of the principal Law respectively, to deal with consequential and typographical issues.

Clause 21 amends section 36 to address the matter of dependent children who are supposed to be engaged in tertiary education, by ensuring that they are so engaged.

Clause 22 amends section 37 to correct a typographical error.

Clause 23 amends section 37A to provide that the right of a dependent child to reside in the Islands shall cease at the age of eighteen unless his parent applies for the variation of his Certificate of Direct Investment to reflect the fact that the child is in tertiary education.

Clause 24 amends section 37C of the principal Law to provide for the abandonment of the concept of Specialist Caregivers but protects the interests of the holders of a Specialist Caregivers Certificate by allowing time spent working

on such Certificate to count as legal and ordinary residence for the purposes of an application for permanent residence.

Clause 25 amends section 38 of the principal Law primarily to extend the scope of the power of the grantor of permanent residence to revoke the grant by removing the restriction which provides, for example, that the organising or engaging in subversive political activity or the promotion of racism must have taken place in the Islands to qualify as a ground for the revocation of permanent residence. Other grounds on which permanent residency may be lost include-

- (a) delinquency in the payment of prescribed fees in respect of the right to reside permanently in the Islands;
- (b) working in an unauthorised occupation; and
- (c) failure to make the annual declaration required under clause 30(13).

Clauses 26 to 31 inclusive, amend sections 39, 40A, 42, 44, 45 and 48 of the principal Law respectively, in order to incorporate the necessary ancillary amendments and to effect other minor adjustments.

Clause 32 amends section 49 of the principal Law to dispense with the key employee designation while recognising that all applications for such designation, pending at the commencement of the Law for which this is the Bill, shall be determined.

Clause 33 amends section 51 of the principal Law as part of the new arrangement whereby the Chief Immigration Officer is invested with almost all of the powers of the Boards.

Clause 34 repeals and substitutes section 52 of the principal Law to deal with the legislative ramifications of the proposed immigration policy in relation to-

- (a) the change in the duration of the term limit from seven to nine years;
- (b) the discontinuance of the key employee concept;
- (c) the impending demise of the Term Limit Exemption Permit; and
- (d) the discontinuance of the final non-renewable work permit; and
- (e) the introduction of the ability to apply to the Chief Immigration Officer for permission to remain in circumstances analogous to the repealed section 52(6).

Clause 35 amends section 52A of the principal Law to streamline the provision in order to conform to the new dispensation with respect to the holders of the Term Limit Exemption Permit and provides an opportunity, with effect from the cut-off

date, for such holders to continue working by operation of law on the same terms and conditions until 9th December, 2013.

Clauses 36 amends section 55 of the principal Law and deals with consequential provisions.

Clause 37 amends section 56 of the principal Law to remove the ability to work by operation of law beyond the date of refusal of an application for a work permit where the worker had previously been working by operation of law on the basis of having held a temporary work permit.

Clause 38 amends section 104 to create the offence of providing the Board or the Chief Immigration Officer with misleading information to justify continued residence in the Islands on the pretext of being engaged in tertiary education at an educational establishment.

Clause 39 amends section 114 of the principal Law and contains transitional provisions.

Clause 40 repeals section 118 of the principal Law which is a saving provision.

Clause 41 repeals section 119 of the principal Law which is a validating provision.

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

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Immigration Law (2013 Revision) – definitions
3. Amendment of section 7 – appointment of Immigration Boards, Director of Boards and Work Permits and functions of Boards
4. Amendment of section 14 – appeals from decisions of immigration officer
5. Repeal and substitution of section 15 – appeals from decisions of Boards and Chief Immigration Officer
6. Repeal and substitution of section 16 – conduct of appeals
7. Repeal and substitution of section 18 – decisions to be administrative
8. Amendment of section 22 – acquisition of the right to be Caymanian by grant of the Board
9. Amendment of section 24 – matters for Board’s consideration
10. Amendment of section 27 – loss of right to be Caymanian
11. Amendment of section 28 – revocation on conviction
12. Insertion of section 28A – right to relinquish grant
13. Amendment of the heading of Part IV – Permanent Residence
14. Amendment of section 29 – categories of permanent residence
15. Repeal and substitution of section 30 – persons legally and ordinarily resident in the Islands for at least eight years
16. Amendment of section 31 – Residency and Employment Rights Certificate for spouse of a Caymanian
17. Amendment of section 32 – dependants of Residency and Employment Rights Certificate holders
18. Amendment of section 33 – loss of Residency and Employment Rights Certificate
19. Amendment of section 34A – Certificate of Permanent Residence for Persons of Independent Means
20. Amendment of section 35 – 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
21. Amendment of section 36 – dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means
22. Amendment of section 37 – revocation of Residency Certificate for Persons of Independent Means
23. Amendment of section 37A – Certificate of Direct Investment
24. Amendment of section 37C – Certificate for Specialist Caregivers

25. Amendment of section 38 – general provisions relating to loss of permanent residency
26. Amendment of section 39 – qualifications for legal and ordinary residence in Part IV
27. Amendment of section 40A – provisions not applicable to special economic zone developer and special economic zone enterprise
28. Amendment of section 42 – application for work permit
29. Amendment to section 44 – consideration of application for work permit by Board or Chief Immigration Officer
30. Amendment of section 45 – Business Staffing Plan
31. Amendment of section 48 – grant or refusal of work permit
32. Amendment of section 49 – key employees
33. Amendment of section 51 – prohibition against unauthorised promotion or re-designation
34. Repeal and substitution of section 52 – term limits
35. Amendment of section 52A – Term Limit Exemption Permit
36. Amendment of section 55 – work permit fees
37. Amendment of section 56 – offence to engage in gainful occupation or to employ persons in contravention of this Part
38. Amendment of section 104 – offences relating to false documents, etc.
39. Repeal and substitution of section 114 – transitional provisions
40. Repeal of section 118 – saving
41. Repeal of section 119 – validation of certain acts and things

CAYMAN ISLANDS

A BILL FOR A LAW TO AMEND THE IMMIGRATION LAW (2013 REVISION) TO REVISE IMMIGRATION POLICY AS IT RELATES TO THE TERM LIMIT, PERMANENT RESIDENCE, KEY EMPLOYEES, HOLDERS OF A TERM LIMIT EXEMPTION PERMIT, AND SPECIALIST CAREGIVERS; TO IMPROVE THE APPEALS PROCESS; TO EXTEND THE POWERS OF THE CHIEF IMMIGRATION OFFICER; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Immigration (Amendment) (No. 2) Law, 2013.

Short title

2. The Immigration Law (2013 Revision), in this Law referred to as the “principal Law”, is amended in section 2 as follows-

Amendment of section 2 of the Immigration Law (2013 Revision) - definitions

- (a) in the definition of the word “Board” by deleting “49 and 52” and substituting “49, 52 and 56”;
- (b) by inserting after the definition of the word “convicted and deportable” the following definition-

“ “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;”;

- (c) in the definition of the words “points system” by inserting after the word “Board” the words “or the Chief Immigration Officer”;
- (d) in the definition of the words “term limit” by deleting “and (4)”;
- and
- (e) in the definition of the word “worker” by deleting the words “fixed-term work permit” and substituting the words “Term Limit Exemption Permit”.

Amendment of section 7 – appointment of Immigration Boards, Director of Boards and Work Permits and functions of Boards

3. The principal Law is amended in section 7 as follows-

- (a) in subsection (2)(a)(ii) by inserting after the words “Work Permit” the words “and Permanent Residence”; and
- (b) in subsection (2)(b) by inserting after the words “Work Permit” the words “and Permanent Residence”.

Amendment of section 14 – appeals from decision of immigration officer

4. The principal Law is amended in section 14 as follows-

- (a) in subsection (1) by deleting the words “to the appellant by post, be deemed to have been communicated to him at the time at which it should have been received in the ordinary course of post” and substituting the following words “to the appellant-
 - (i) by post, be deemed to have been received by him no later than seven days from the date of dispatch; or
 - (ii) by electronic mail, be deemed to have been received by him no later than twenty-four hours after its transmission”;
- (b) in subsection (2)-
 - (i) by deleting paragraph (b); and
 - (ii) in paragraph (f) by inserting after the words “Independent Means” the words “, a Certificate of Direct Investment, a Residency Certificate (Substantial Business Presence) or a Certificate of Permanent Residence for Persons of Independent Means”; and
- (c) by deleting paragraph (b) of subsection (3) and substituting the following paragraph-

“(b) an appellant under subsection (2)(d) to (f) may be allowed to remain in the Islands if he satisfies the Chief Immigration Officer that he is able to support himself and his dependants, if any.”.

Repeal and substitution of section 15 – appeals from decisions of Boards and Chief Immigration Officer

5. The principal Law is amended by repealing section 15 and substituting the following section-

“Appeals from
decisions of
Boards and Chief
Immigration
Officer

15. (1) Save as otherwise provided in this Law, any person aggrieved by, or dissatisfied with, any decision of the Chief Immigration Officer under section 30, 37C, 42(5) or 49 or of a Board other than a decision under section 14 may, within-

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

serve notice on the Immigration Appeals Tribunal of his intention to appeal such decision.

(2) Appeals under this section and section 14 shall be by notice in writing addressed to the Secretary of the Immigration Appeals Tribunal or, in the case of an appeal under section 14, the Secretary of the pertinent Board and such notice-

- (a) shall set forth 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 16 to the appellant-

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

(4) On receipt of a notice of appeal the pertinent Board or the Immigration Appeals Tribunal shall, within fourteen days, notify the Chief Immigration Officer or the Board, as the case may be, of the decision against which the appeal is made.

(5) Upon receipt of a notification under subsection (4) the Chief Immigration Officer or the Board, as the case may be, shall, within a reasonable period, deliver to the Immigration Appeals Tribunal or the Board and the appellant, the reasons for

his or its decision.

(6) Upon receipt of the reasons referred to in subsection (5) 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 14, file his detailed grounds of appeal upon which the hearing shall be determined by the Immigration Appeals Tribunal or the pertinent Board, as the case may be, and serve a copy thereof on the Board or the Chief Immigration Officer.

(7) An appeal under this section or section 14 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.

(8) 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 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 grounds.

(9) 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 him.

(10) A decision under subsection (10) to quash an appeal shall not in itself give rise to a right of appeal.

(11) The period within which detailed grounds of appeal must be filed under subsection (6) may be extended at the discretion of the Chairman of the Immigration Appeals Tribunal or the Chairman of the pertinent Board upon request of the

appellant for good reason shown in writing.

(12) The Chief Immigration Officer 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.”.

6. The principal Law is amended by repealing section 16 and substituting the following section- Repeal and substitution of section 16 – conduct of appeals

“Conduct of appeals

16. (1) A hearing on grounds as referred to in section 15(9)(a) shall take into account-

- (a) the reasons provided by the Chief Immigration Officer or the Board under section 15(5) and all information that was submitted by the appellant at the time of his original application; and
- (b) the written detailed grounds filed by the appellant under section 15(6).

(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, as the case may be, 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 15(7) 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 Chief Immigration Officer 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 his representative 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 Chief Immigration Officer.

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

Repeal and substitution
of section 18 – decisions
to be administrative

7. The principal Law is amended by repealing section 18 and substituting the following section-

“Decisions to be
administrative

18. (1) Decisions made under or by virtue of sections 7, 14, 15 and 16 shall be deemed to be administrative and not judicial decisions and, subject to subsection (2), no person shall be required to, but at his absolute discretion may, give reasons for such decisions.

(2) Where a Board rejects an application under section 22, or the Board or the Chief Immigration Officer rejects an application under section 30 or 48, either in whole or in part, it shall give the applicant brief reasons for that rejection and inform him of his right of appeal under section 15.

(3) Failure of a Board or the Chief Immigration Officer to inform an applicant of the right of appeal referred to in subsection (2) and under section 17(2) shall not of itself give rise to a right of appeal under section 15 or under section 17(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 Chief Immigration Officer 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 7, 14, 15 and 16, the Immigration Appeals Tribunal or the pertinent Board shall provide brief written reasons for its decisions under sections 15(10) and 16(1) only if requested by the appellant within fourteen days of receipt of the Appellate Tribunal's decision.”.

8. The principal Law is amended in section 22-

Amendment of section 22 – acquisition of the right to be Caymanian by grant of the Board

- (a) in subsection (7) by deleting the words “shall take into account the applicant’s health and character.” and substituting the words “shall take into account-
 - (i) the length of the marriage;
 - (ii) whether there are any children of the marriage;
 - (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 and any dependants; and
 - (v) the applicant’s health and character.” and

- (b) in subsection (9) by inserting after the words “apply to the Board” the words “prior to reaching the age of twenty-four”.

9. The principal Law is amended in section 24(g) by inserting after the word “Islands” the words “or elsewhere”.

Amendment of section 24 – matters for Board’s consideration

10. The principal Law is amended in section 27(1) by repealing paragraph (d) and substituting the following paragraph-

Amendment of section 27 – loss of right to be Caymanian

- “(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 Chief Immigration Officer 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.”.

Amendment of section 28 – revocation on conviction

11. The principal Law is amended in section 28 as follows-

- (a) by renumbering section 28 as section 28(1);
- (b) in subsection (1) as renumbered, by inserting after the word “court” the words “in the Islands or elsewhere”; and
- (c) by inserting after subsection (1) the following subsection-

“(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.”.

Insertion of section 28A – right to relinquish grant

12. The principal Law is amended by inserting after section 28 the following section-

“Right to relinquish grant

28A. In respect of any rights granted under this Part or Part IV, the holder may relinquish such rights of his own free will by advising the Board or the Chief Immigration Officer in writing and upon that relinquishment that person shall cease to enjoy any of the rights associated with that grant.”.

Amendment of the heading of Part IV – Permanent Residence

13. The principal Law is amended by deleting the heading “PART IV – Permanent Residence” and substituting the following heading-

“PART IV – Permanent Residence and Extended Residence Categories”

Amendment of section 29 – categories of permanent residence

14. The principal Law is amended in section 29 as follows-

- (a) in subsection (1) by inserting after the word “Board” the words “and the Chief Immigration Officer”;
- (b) in subsection (2) by deleting the words “to section 34” and substituting the words “to sections 34 and 34A”;
- (c) by inserting after subsection (2) the following subsections-

“(2A) In this Part, unless the context otherwise requires, a reference to the Chief Immigration Officer in relation to the granting of permanent residence under section 30 or a Residency and Employment Rights Certificate under section 31

shall be construed as a reference to anyone specifically designated by him to perform those duties.

(2B) All or any of the powers conferred upon the Chief Immigration Officer under subsection (1) may be delegated by him to any members of his staff.”; and

(d) in subsection (3)(d) by adding after the word “Board” the words “, the Business Staffing Plan Board, the Caymanian Status and Permanent Residency Board or the Chief Immigration Officer”.

15. The principal Law is amended by repealing section 30 and substituting the following section-

Repeal and substitution of section 30 – persons legally and ordinarily resident in the Islands for at least eight years

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

30. (1) The following persons who have been and are legally and ordinarily resident in the Islands for a period of at least eight years but not more than nine years, other than-

- (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 Chief Immigration Officer for permission for himself, his spouse and his 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) Notwithstanding subsection (1), where at the commencement of the Immigration (Amendment) (No. 2) Law,

2013, a person has already been legally and ordinarily resident in the Islands in excess of nine years, he shall be entitled to a period of ninety days from such commencement within which to apply under this section for the right to reside permanently in the Islands.

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

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

(5) 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 his appeal, he is debarred from re-applying under the provisions of that subsection and shall leave the Islands upon the expiration of any period during which he was allowed to work under section 52(4) unless he 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 he re-qualifies under the criteria contained in this section having taken the break in stay required under section 52(1); or
- (b) in the case of a Government employee, for a period of nine years following the date of the refusal of his application or any subsequent appeal in respect of that application.

(6) Upon the grant of permanent residence, the Board or the Chief Immigration Officer 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 choice; and
- (b) to have reside with him such of his dependants as were listed in his application and were approved by the Board or the Chief Immigration Officer,

but the Certificate shall restrict him to working within the particular occupation or occupations specified by the Board or the Chief Immigration Officer; and such Certificate may be varied by the Board or the Chief Immigration Officer, but there shall be no entitlement to be self-employed.

(7) For the avoidance of doubt where the prescribed fees have not been submitted as required under subsection (1), the Board or the Chief Immigration Officer shall have no power to entertain the application.

(8) Where the Board or the Chief Immigration Officer varies a Certificate under subsection (6) to change an occupation, the original occupation specified by the Board or the Chief Immigration Officer shall remain and shall be the occupation upon which the annual fee is based unless the new occupation is in a higher fee category.

(9) When applying under this section for the right to reside permanently in the Islands the applicant shall provide full particulars of his spouse and all dependants whether or not it is intended that they would accompany him if his application is successful; and the failure to provide such particulars in his application is an offence.

(10) 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 Chief Immigration Officer in writing and may request that such dependants be included in the application or appeal when it is being determined.

(11) An applicant referred to in subsection (10) shall also inform the Board or the Chief Immigration Officer in respect of his application if there is any change in his circumstances since making the application, in relation to-

- (a) any convictions he may have received;
- (b) whether he has become unemployed;
- (c) whether he has been charged with an offence;
- (d) whether he no longer holds any of the assets

- listed in the application; and
- (e) any change in his marital status or in respect of his dependants,

and failure to do so is an offence.

(12) 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 Chief Immigration Officer of the fact and the Board or the Chief Immigration Officer may amend the Certificate to include any additional children subject to such conditions as the Board or the Chief Immigration Officer may, in its or his absolute discretion, determine.

(13) The holder of a Certificate issued under subsection (6) or section 34 or 34A shall provide annually a declaration containing prescribed particulars in respect of himself and his dependants and his failure to provide such declaration is both an offence and a ground for revocation of the Certificate.

(14) 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 his 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 and he shall inform the Board or the Chief Immigration Officer of the details of the new property including the purchase price and the date on which the transaction was completed and such 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 Chief Immigration Officer 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 Chief Immigration Officer for the grant of a Residency and Employment Rights Certificate in his own right.

(16) The spouse of a permanent resident may apply to the

Board or the Chief Immigration Officer 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 his employer to report to the Board or the Chief Immigration Officer 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 his employer, both previous and current, liable.

(18) Upon the death of the holder of a Residency and Employment Rights Certificate issued under subsection (6) or upon the dissolution of his marriage the right of his surviving spouse or former spouse to reside in the Islands may be revoked at the discretion of the Board or the Chief Immigration Officer, but the said 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 (6), or upon the dissolution or breakdown of his marriage, it shall be the duty of-

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

to notify the Board or the Chief Immigration Officer 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 his spouse shall be liable.

(20) Where an application for a Residency and

Employment Rights Certificate has been made under subsection (18) within the said 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 Chief Immigration Officer determines the application or the Immigration Appeals Tribunal determines any subsequent appeal.

(21) The right of a dependent child of the holder of a Residency and Employment Rights Certificate issued under subsection (6) or (18) to reside in the Islands as a dependant shall cease upon reaching the age of eighteen years unless his parent's Residency and Employment Rights Certificate has been varied to reflect the fact that the dependent child is engaged in full-time tertiary education, or the Chief Immigration Officer is satisfied that there are special circumstances.

(22) A person who enjoys the status of permanent resident granted prior to 1st January, 2004, may apply to the Board for a variation of that status to enable him to acquire the rights outlined in subsection (6), and in the absence of exceptional circumstances the Board or the Chief Immigration Officer shall approve the application.

(23) Where the Chief Immigration Officer or his designate entertains an application under this section or section 31, it shall be their responsibility to record and keep, or cause to be recorded and kept, minutes of the deliberations including decisions taken.”.

Amendment of section
31 – Residency and
Employment Rights
Certificate for spouse of
a Caymanian

16. The principal Law is amended in section 31 as follows-

- (a) by inserting after the word “Board” wherever it appears, other than in subsection (3), the words “or the Chief Immigration Officer”;
- (b) by repealing subsection (1) and substituting the following subsection-

“(1) The spouse of a Caymanian may apply to the Chief Immigration Officer or the Caymanian Status and Permanent and Residency Board for permission to reside in the Islands and if such application is successful the Chief

Immigration Officer or the Board, as the case may be, shall grant to the applicant a Residency and Employment Rights Certificate for a period of seven years and such Certificate when granted may, upon application, be renewed at the discretion of the Chief Immigration Officer or the Board.”;

- (c) in subsection (4) by repealing paragraph (b) and substituting the following paragraph-

“(b) to have such of his dependants as were listed on the application and were approved by the Board or the Chief Immigration Officer 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 Chief Immigration Officer is satisfied that there are special circumstances.”;

- (d) by repealing subsection (6) and substituting the following subsection-

“(6) The spouse of a Caymanian shall have no right to reside or be gainfully employed in the Islands unless he is the holder of a Residency and Employment Rights Certificate granted under this section and he 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 he may continue to work under the terms and conditions of the work permit until its expiration.”;

- (e) in subsection (7)-

- (i) by inserting after the word “it” the words “or he”; and
(ii) by adding after the words “that person” the words “, unless the marriage is dissolved”;

- (f) in subsection (8)-

- (i) by repealing paragraph (a) and relettering paragraphs (b) and (c) as paragraphs (a) and (b), respectively; and
(ii) in paragraphs (a) and (b) as relettered, by inserting after the words “the Board’s” wherever they appear the words “or the Chief Immigration Officer’s”.

17. The principal Law is amended in section 32-

- (a) by inserting after the word “Board” wherever it appears the words “or the Chief Immigration Officer”;
(b) by renumbering section 32 as section 32(1); and
(c) by inserting after subsection (1) as renumbered the following subsection-

Amendment of section
32 – dependants of
Residency and
Employment Rights
Certificate holders

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

Amendment of section 33 - loss of Residency and Employment Rights Certificate

18. The principal Law is amended in section 33-

- (a) by inserting after the word “Board” wherever it appears the words “or the Chief Immigration Officer”;
- (b) in subsection (1)-
 - (i) by deleting the words “The holder of” and substituting the words “Subject to subsection (2), the holder of”; and
 - (ii) by deleting the words “under section 30(9)” and substituting the words “under section 30(16) or any other earlier analogous provision,”;
- (c) in subsection (3) by deleting the words “in its discretion” and substituting the words “in its or his discretion”; and
- (d) by inserting after subsection (3) the following subsection-

“(4) Where the Board or the Chief Immigration Officer revokes a Certificate under subsection (3) the previous holder shall-

- (a) if he has applied for a work permit, be entitled to work by operation of law on the same terms and conditions as applied to his previous Residency and Employment Rights Certificate; or
- (b) if he has applied for the grant of permanent residence under Part IV, be entitled to apply to the Chief Immigration Officer under section 52(4) for permission to continue working under the provisions of that section,

until the outcome of the application for a work permit or for permanent residence and any subsequent appeal, but in the case of paragraph (b) before doing so he shall comply with the requirements of section 52(6).”.

Amendment of section 34A -Certificate of Permanent Residence for Persons of Independent Means

19. The principal Law is amended in section 34A by repealing subsection (3) and substituting the following subsection-

“(3) Notwithstanding subsection (2) and section 35(1) the holder of a Certificate of Permanent Residence for Persons of Independent Means issued under this section, or his spouse, if he holds a Certificate of Permanent Residence for Dependants of Persons of Independent Means issued under section 35, may apply to the Caymanian Status and Permanent Residency Board or the Chief Immigration Officer for a variation of his Certificate to allow the right to work for any employer but only in the particular occupation or occupations specified by the Board or the Chief Immigration Officer.”.

20. The principal Law is amended in section 35(1)-

- (a) by deleting the words “holder of a Certificate” and substituting the words “holder of a Residency Certificate”; and
- (b) by inserting after the words “without the right to work” the words “save that in the case of a Certificate of Permanent Residence for Dependants of Persons of Independent Means such Certificate may be varied under section 34A(3) to allow the right to work”.

Amendment of section 35 – 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

21. The principal Law is amended in section 36-

- (a) by repealing subsection (1) and substituting the following subsection-

“(1) The right of a dependent child to reside in the Islands as a dependant shall cease upon his reaching the age of eighteen years unless his 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 dependent child is engaged in full-time tertiary education, or the Chief Immigration Officer is satisfied that there are special circumstances.”; and

Amendment of section 36 – dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means

- (b) by repealing subsection (2) and substituting the following subsection-

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

22. The principal Law is amended in section 37 by deleting the words “in section 38(a)” and substituting the words “in section 38(1)(a)”.

Amendment of section 37 – revocation of Residency Certificate for Persons of Independent Means

Amendment of section 37A – Certificate of Direct Investment

23. The principal Law is amended in section 37A by repealing subsection (9) and substituting the following subsection-

“(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 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 Chief Immigration Officer is satisfied that there are special circumstances.”.

Amendment of section 37C – Certificate for Specialist Caregivers

24. The principal Law is amended in section 37C as follows-

(a) by repealing subsection (1) and substituting the following-

“(1) An application for a Certificate for Specialist Caregivers submitted prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013 shall be determined with the criteria set out in subsection (2); and no new applications for the grant of the certificate shall be accepted on or after such commencement.”;

(b) in subsection (3) by inserting after the words “Chief Immigration Officer; and” the words “in the case of a Certificate issued prior to the commencement of the Immigration (Amendment)(No. 2) Law, 2013,”;

(c) in subsection (6) by deleting all the words from “Where, during” to the words “if such application” and substituting the words “Where prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013 an application had been made to the Work Permit Board or to the Chief Immigration Officer for the grant of a Certificate for Specialist Caregivers where the applicant is eligible to make such application then, if such application-”;

(d) by repealing subsection (8);

(e) in subsection (9) by inserting after the words “Specialist Caregivers” the words “, where the applicant was eligible to make such application,”;

(f) by inserting after subsection (9) the following subsection-

“(9A) Where under subsection (9) the employment arrangement ceases or the employer or the person being cared for dies, it shall be the duty of the employee named in the Certificate or his employer, as the case may be, to inform the Board or the Chief Immigration Officer within thirty days of the cessation or the death, and failure to do so is an offence”; and

- (g) by repealing subsection (10) and substituting the following subsection-

“(10) Upon the expiry of a Certificate for Specialist Caregivers and where no application is made for its renewal, or such 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 he is allowed to remain under some other provision of the Law, and neither the Board nor the Chief Immigration Officer shall grant or renew a work permit for him for not less than one year after he has left the Islands.”.

25. The principal Law is amended in section 38 as follows-

Amendment of section
38 – general provisions
relating to loss of
permanent residency

- (a) by repealing subsection (1) and substituting the following subsection-

“(1) The Board or the Chief Immigration Officer may, in respect of any person who has been granted permission to reside permanently in the Islands, revoke such permission where-

- (a) he organises or engages in subversive political activity, or organises, causes or promotes racism within the Islands or elsewhere;
- (b) the Board or the Chief Immigration Officer is satisfied that the information given in his application for permission to remain permanently in the Islands was false in a material particular or concealed a material fact;
- (c) he has been convicted of an offence against the laws of the Islands;
- (d) he 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 Chief Immigration officer make his continued presence in the Islands contrary to the public interest;
- (e) he becomes destitute;
- (f) he becomes mentally disordered or mentally defective as defined in the Mental Health Law, 2013;
- (g) he is medically certified to be suffering from a communicable disease that makes his continued residence in the Islands dangerous to the community;

- (h) he 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) he fails to maintain the level of financial investment stated in his application for permission to remain permanently in the Islands;
 - (j) he fails to make the annual declaration in respect of himself, his dependants, and other prescribed matters, as required by section 30(13);
 - (k) he is or has been working in an occupation not specified in his Certificate;
 - (l) either the Board or the Chief Immigration Officer is of the opinion that he is no longer supporting, or able to support, a dependant previously included in the grant of permanent residence;
 - (m) he 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) he is deemed by the Governor to be an undesirable inhabitant of the Islands; or
 - (o) he has been ordinarily resident outside the Islands continuously for a period of one year or more.”;
- (b) by inserting after subsection (1) the following subsection-
- “(1A) The offence referred to in subsection (1)(d) must have been an offence that would be recognised as an offence in the Islands.”; and
- (c) in subsection (2) by inserting after the word “Board” wherever it appears the words “or the Chief Immigration Officer”.

Amendment of section 39 – qualifications for legal and ordinary residence in Part IV

26. The principal Law is amended in section 39 by deleting the words “, where applicable,” wherever they appear.

Amendment of section 40A – provisions not applicable to special economic zone developer and special economic zone enterprise

27. The principal Law is amended in section 40A by deleting “42(6),”.

28. The principal Law is amended in section 42 as follows-

Amendment of section
42 – application for
work permit

- (a) in subsection (5)(a) by deleting the words “except for those referred to in subsection (6)”;
- (b) in subsection (5)(b) by deleting the words “section 52(12)” and substituting the words “section 52(10)”;
- (c) in subsection (5)(c) by inserting after the word “refused” the words “and an appeal against such refusal has not been lodged”;
- (d) in subsection (5)(d) by deleting the words “except for those referred to in subsection (6)(c)”;
- (e) by repealing subsection (6) and substituting the following subsection-

“(6) For the avoidance of doubt the Chief Immigration Officer or his designate may amend but may not grant or renew a Business Staffing Plan.”.

29. The principal Law is amended in section 44-

Amendment of section
44 – consideration of
application for work
permit by Board or
Chief Immigration
Officer

- (a) by repealing paragraph (d) and substituting the following paragraph-
 - “(d) in the case of a worker who has a ten year term limit which took effect prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013, the extent to which the employer has contributed to the national training initiative.”; and
- (b) by renumbering subsection (5) as subsection (6) and inserting after subsection (4) the following subsection-

“(5) A person who, when making an application under section 42 to the Board or the Chief Immigration Officer, 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 the Chief Immigration Officer, 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.”.

Amendment of section
45 – Business Staffing
Plan

30. The principal Law is amended in section 45 as follows-

- (a) in subsection (5) by deleting the words “the Work Permit Board and the Chief Immigration Officer may, notwithstanding that it has been filed late, resume entertaining applications for the grant or renewal of work permits for that applicant” and substituting the words “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”; and
- (b) in subsection (7) by inserting after the word “Board” the words “or the Chief Immigration Officer”.

Amendment of section
48 – grant or refusal of
work permit

31. The principal Law is amended in section 48-

- (a) in subsection (2) by deleting paragraph (d) and substituting the following paragraph-
 - “(d) any period remaining in his term limit in the case of a worker who has a ten year term limit which took effect prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013;”;
- (b) in subsection (10)-
 - (i) by inserting after the words “may be revoked” the words “by the Board or the Chief Immigration Officer”; and
 - (ii) in paragraph (e) by inserting after the word “offence” the words “in the Islands or elsewhere”.

Amendment of section
49 – key employees

32. The principal Law is amended in section 49 as follows-

- (a) by repealing subsection (1) and substituting the following subsection-
 - “(1) Any application for key employee designation received prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013, shall be determined in accordance with this section.”;
- (b) in subsection (2)-
 - (i) by deleting the words “section 52(1) or (4)” and substituting “section 52(1)”;
 - (ii) by deleting the words “or his fixed-term work permit” wherever they appear;
- (c) by repealing subsection (3);

- (d) in subsections (4) and (5) by inserting after the word “Board” wherever it appears the words “or the Chief Immigration Officer”;
- (e) by repealing subsections (6) and (8); and
- (f) in subsection (7)-
 - (i) by deleting the words “under subsection (4) or (6)” and substituting the words “under subsection (4)” and
 - (ii) by inserting after the word “Board” wherever it appears the words “or the Chief Immigration Officer”.

33. The principal Law is amended in section 51-

- (a) by inserting after the word “Board” wherever it appears the words “or the Chief Immigration Officer”; and
- (b) in paragraph (a) by deleting the words “shall satisfy itself” and substituting the words “shall be satisfied”.

Amendment of section 51 – prohibition against unauthorised promotion or re-designation

34. The principal Law is amended by repealing section 52 and substituting the following section-

Repeal and substitution of section 52 – term limits

“Term limits

52. (1) Subject to subsections (4), (6), (8), (10) and (11) the term limit of a worker shall be nine years, whether or not he is a key employee, 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 his term limit, the worker shall leave the Islands and neither the Board nor the Chief Immigration Officer shall grant or renew a work permit for him until he has ceased to hold a work permit for not less than one year after he has left the Islands.

(2) A worker who leaves the Islands before the expiration of his 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 term limit and has ceased to hold a work permit but either he or his employer wishes to apply for a new work

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

(4) Subject to subsection (5), where a person has applied for permission to reside permanently in the Islands under section 30 and if he is subject to a term limit and his final work permit has expired he may apply to the Chief Immigration Officer for permission to-

- (a) continue working upon the same terms and conditions as applied to his final work permit;
- (b) work for a different employer but in the same occupation as stated in his final work permit; or
- (c) continue working as authorised previously,

and such permission may be granted or renewed until such time as his application or any appeal relating to it is determined.

(5) Any permission granted under subsection (4) may be varied by the Chief Immigration Officer to add or remove a dependant or may be revoked on any of the grounds listed under section 48(10).

(6) A person who intends to work by operation of law under section 49(2) or 52A (12) shall first submit, or cause to be submitted, his passport to the Immigration Department and his employer shall pay annually all fees that would have been paid in respect of the person had he continued to be employed on a work permit and thereupon his passport shall be endorsed acknowledging him 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 his 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 having been filed has been unsuccessful and all further appeals have been exhausted and in either event his 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 of such refusal or the determination of any appeal or proceedings arising therefrom, whichever shall be the later, and after such period expires he shall leave the Islands and neither the Board nor the Chief Immigration Officer shall issue or renew a work permit for him until he 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 himself become a worker but his term limit shall be deemed to have commenced on the date on which he was first within the Islands as an approved dependant and he shall be thereafter subject to the provisions of this section as if he 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 under section 49(2) or 52A(12), or with the permission granted under subsection (4) or (8),

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

- (b) whose marriage is in the opinion of the Board or

the Chief Immigration Officer not a marriage of convenience;

- (c) who is not living apart from his spouse under a decree of a competent court or under a deed of separation; and
- (d) who has not lived apart from his 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 Chief Immigration Officer, 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 spouse is working by operation of law under section 49(2), 52A(12) or 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 Chief Immigration Officer may grant the application for a period not exceeding that of the spouse's work permit or any renewal thereof or of his contract of employment as aforesaid or of the period for which his 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 30 and who has applied for a Residency and Employment Rights Certificate as the spouse of a permanent resident under section 30(16) will not lose his right to work and may continue to be granted work permits until the final determination of his application where that application was submitted within ninety days of the grant of his spouse's permanent residence.

(12) Where a work permit has been granted to a worker under subsection (10) and his 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 his spouse ceases to have the right to work and the worker shall himself leave the Islands and not be entitled to the grant or renewal of any further work permits until he has ceased to hold a work permit for not less than one year after he has left the Islands.

(13) The Board or the Chief Immigration Officer, in calculating under subsection (10)(d), the period of time that an applicant has spent apart from his 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 Chief Immigration Officer shall notify the worker and his employer of the worker's term limit and its expiration date for the purposes of this Law.

(15) For the avoidance of doubt, subsection (1) does not apply to a person who had and continues to have, his normal place of work and abode for the time being outside the Islands and who enters the Islands to work on a temporary work permit for a specific purpose or occasion only and leaves the Islands at the conclusion thereof or upon the expiration of the temporary 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 tradesmen;
- (d) travelling salesmen; or
- (e) other persons in similar circumstances.

(16) For the avoidance of doubt a worker who was subject to a term limit of seven years and who left the Islands upon the expiry of such term limit prior to the commencement of the Immigration (Amendment)(No. 2) Law, 2013 without applying for any right contained in this Law to remain beyond the expiry of his term limit, shall not be entitled to return to the Islands and hold any further work permits on the basis of the term limit now provided for under subsection (1) until he has completed a break in stay of at least one year from the date of his departure.”.

35. The principal Law is amended in section 52A as follows-

- (a) in subsection (1) by deleting the words “within thirty days prior to the appointed date or expires on or”;
- (b) by repealing subsections (4) and (6);

Amendment of section
52A – Term Limit
Exemption Permit

- (c) by repealing subsection (8) and substituting the following subsection-

“(8) Where a worker’s Term Limit Exemption Permit has been revoked within six months of its issue, the employer shall be entitled to a refund of fifty percent of the annual fee.”; and

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

“(11) Subject to subsection (12), upon the expiry of a worker’s Term Limit Exemption Permit which expired automatically upon reaching the cut-off date, the worker shall leave the Islands unless he is authorised to remain by virtue of any other provision of this Law and neither the Board nor the Chief Immigration Officer shall grant or renew a work permit, Business Visitors’ Permit or a Visitor’s Work Visa for him until he has ceased to hold such permit for not less than one year after he has left the Islands.

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

Amendment of section 55 – work permit fees

36. The principal Law is amended in section 55(1)-

- (a) by deleting the words “or a fixed-term work permit” and substituting the words “shall be”; and
(b) by deleting the words “or a fixed-term work permit fee” wherever they appear.

Amendment of section 56 – offence to engage in gainful occupation or to employ persons in contravention of this Part

37. The principal Law is amended in section 56 as follows-

- (a) in subsection (3)-
(i) by repealing paragraph (b) and substituting the following paragraph-
“(b) in the case of a work permit other than a temporary work permit, has been refused by the Board or the Chief Immigration Officer and that refusal has been appealed under section 15 to the Immigration Appeals Tribunal”; and
(ii) by deleting the words “section 52(12)” and substituting the words “section 52(10)”;

- (b) in subsection (4) by deleting the words “including the Cayman Brac or Little Cayman Immigration Board,”; and
- (c) in subsection (5)-
 - (i) by deleting the words “without a work permit”;
 - (ii) by deleting the word “Part” and substituting the word “Law”; and
 - (iii) by deleting the words “in a work permit” and substituting the words “in a permit”.

38. The principal Law is amended in section 104 by inserting after subsection (1) the following subsection-

Amendment of section 104 – offences relating to false documents, etc.

“(1A) The holder of a Certificate issued under Part IV applying for a variation of that Certificate to reflect the fact that his dependant is engaged in full-time tertiary education in an educational institution shall satisfy the Board or the Chief Immigration Officer 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 such variation being approved; or
- (b) he is residing in the Islands on the basis of an approved variation but is not engaged in such education.”.

39. The principal Law is amended by repealing section 114 and substituting the following section-

Repeal and substitution of section 114 – transitional provisions

“Transitional provisions

114. (1) Nothing in this Law shall adversely affect the rights of any person where those rights–

- (a) were acquired under the Immigration Law (2013 Revision) or any earlier Law; and
- (b) existed immediately prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013.

(2) Where prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013 an application for the right to reside permanently in the Islands was made and is still pending, the Caymanian Status and Permanent Residency Board and the Chief Immigration Officer shall deal with such application in accordance with the law in effect immediately prior to such commencement.

(3) For the avoidance of doubt an application for the grant of the right to reside permanently in the Islands or a

work permit made on or after the commencement of the Immigration (Amendment) (No. 2) Law, 2013 shall be determined in accordance with the law in effect at the time the application is being heard by the Board or, in the case of an appeal, by the Immigration Appeals Tribunal.

(4) Where prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013 an application was made for the grant of the right to be Caymanian, the Caymanian Status and Permanent Residency Board and the Chief Immigration Officer shall deal with such application in accordance with the law in effect immediately prior to such commencement.

(5) Where prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013 an application was made for the grant, renewal or variation of a work permit, or for a Term Limit Exemption Permit or Certificate for Specialist Caregivers, the Work Permit Board, the Business Staffing Plan Board, the Cayman Brac and Little Cayman Board or the Chief Immigration Officer, as the case may be, shall deal with such application in accordance with the law in effect immediately prior to such commencement.

(6) A person who at the commencement of the Immigration (Amendment) (No. 2) Law, 2013 holds an authorisation to work by operation of law on the basis of having submitted an application for permission to reside permanently in the Islands shall be deemed to hold permission under section 52(4) until such permission expires or is revoked.”.

Repeal of section 118 – saving

40. The principal Law is amended by repealing section 118.

Repeal of section 119 – validation of certain acts and things

41. The principal Law is amended by repealing section 119.

Passed by the Legislative Assembly the day of , 2013.

Speaker.

Clerk of the Legislative Assembly.