

TERM LIMIT EXEMPTION PERMITS

Changes to our immigration legislation which took effect on **Friday 28 October 2011** have important consequences for persons (and their employers) who have reached the expiry of their term limit recently, or who will reach it within the next two years. These changes allow an employer, or prospective employer, of a person -

- (a) whose final work permit expired on or after 28 September 2011 **and** who had not applied for permanent residence prior to the expiry of their final work permit; or
- (b) who, on 28 October 2011, is working by operation of law having applied for key employee designation and the application is subsequently refused,

to apply for a Term Limit Exemption Permit which, if granted, will allow them to remain employed in the Islands, either for their last employer or for a new employer, for up to two years from 28 October 2011 even though their term limit has expired.

FREQUENTLY ASKED QUESTIONS

How do I know if I am entitled to a Term Limit Exemption Permit?

If you fall within (a) or (b) above you are entitled to apply for a Term Limit Exemption Permit.

If I am working on a Term Limit Exemption Permit may I apply for permanent residence?

No. Holders of a Term Limit Exemption Permit are expressly prohibited from applying for permanent residence.

How do I apply for a Term Limit Exemption Permit?

The employer, or prospective employer, of a person who falls within (a) or (b) above may apply for a Term Limit Exemption Permit using the new form [insert link to form] and by providing all the usual documentation that is required when applying for a work permit. For the work permit checklist, click [here](#).

How long is a Term Limit Exemption Permit valid for?

A permit will be issued for one year initially. It can be renewed up until 28 October 2013.

How much does a Term Limit Exemption Permit cost?

The application fee is CI\$100 and the issue fee (both fees payable at the time of application) is the same as the amount that would be paid for a work permit in the same occupation.

If the application is refused, is there a right of appeal?

Yes. There is a right of appeal to the Immigration Appeals Tribunal.

Will the worker be allowed to work while awaiting the outcome of the appeal?

Yes. Up until the outcome of the appeal but no later than 28 October 2013.

What will be taken into account when considering an application for a Term Limit Exemption Permit?

All the requirements contained in section 44 of the Immigration Law. For example, the health and character of the worker, his ability to support himself and his dependants, and the efforts that the applicant has made to identify a Caymanian for the position.

May a worker on a Term Limit Exemption Permit be accompanied by dependants?

Yes, provided the worker's income is sufficient to support his dependants and they have been authorized by the Immigration Department.

Does a worker have to work for the same employer who held their final work permit?

No. A worker may work either for their last employer or a new employer.

Can a Term Limit Exemption Permit be varied, for example to include/remove dependants or to change a job title?

Yes.

Can a Term Limit Exemption Permit be shared between two employers?

Yes, in the same way that a work permit may be shared.

If a Term Limit is canceled or revoked before its expiry, are any fees refundable?

If the cancellation or revocation is within six months of its issue then the employer will be entitled to a refund of fifty per cent of the annual fee.

In what circumstances will a worker be able to work while awaiting a decision on a Term Limit Exemption Permit application?

A worker will be allowed to continue working in the following circumstances –

- (a) where an application for the renewal of a Term Limit Exemption Permit is made prior to its expiry; or
- (b) where an application for a Term Limit Exemption Permit is submitted prior to the expiry of the worker's final work permit and is for continued employment for the same employer. Note: if the Term Limit Exemption Permit is for a different employer than the worker's last employer then they are not allowed to work in the period between the expiry of their final work permit and the grant of the Term Limit Exemption Permit.
- (c) where an application for the grant of a Term Limit Exemption Permit submitted prior to the expiry of the worker's final work permit (for continued employment with the same employer) is refused and an appeal is lodged with the Immigration Appeals Tribunal.
- (d) where an application for the renewal of a Term Limit Exemption Permit is refused and an appeal is lodged with the Immigration Appeals Tribunal.

Notes:

(1) where the worker is allowed to work under any of (a) to (d) this will be on the same terms and conditions as applied to their final work permit.

(2) this right to work shall cease if the application is refused and no appeal is submitted; if the application is refused and an appeal against the refusal is dismissed; or upon reaching 28 October 2013.

What happens after the expiry of a Term Limit Exemption Permit?

Where the Term Limit Exemption Permit was granted for one year but was not renewed on a renewal application nor on appeal, or which has expired automatically upon reaching 28 October 2013, the worker will be required to leave the Islands unless he is authorized to remain under any other provision of the Immigration Law. He also cannot hold another work permit until at least one year has passed after he has left the Islands.

How long may I continue to receive Term Limit Exemption Permits?

Up until 28 October 2013.

What happens after the facility ends on 28 October 2013?

The worker will be required to leave the Islands and they may not be granted a work permit for at least one year after their departure.

Does the time that the worker remains here after the expiry of their work permit count towards the eight-year residence requirement in order to apply for permanent residence?

No.

Does the worker have to work for the same employer who held their final work permit or can they change employers?

The worker can work for any employer.