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IMMIGRATION LAW

(2011 Revision)

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Note (not forming part of the Law): This revision replaces the 2010 Revision which should now be discarded.

IMMIGRATION LAW

(2011 Revision)

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IMMIGRATION LAW

(2011 Revision)

PART 1 - Introductory

1. This Law may be cited as the Immigration Law (2011 Revision).

Short title

2. In this Law-

Definitions

“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;

“Appellate Tribunal” means the Work Permit Board or the Immigration Appeals Tribunal, as the case may be, acting in an appellate capacity;

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

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

“Board” means one of the three Boards established under section 4 and includes, for the purposes of sections 44(4)(b), 49 and 52, the Cayman Brac and Little Cayman Immigration Board;

“Business Staffing Plan” means the Plan referred to in section 45;

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

“business visitor” means a person who has been issued with a business visitor’s permit granted under section 54;

“by entitlement” in relation to the right to be Caymanian under section 20(1)(d) means entitlement by a person by virtue only of his being, in the determination of the Chief Immigration Officer;

- (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

“Cayman Brac and Little Cayman Immigration Board” means the Immigration Board appointed under section 5;

- 2003 Revision
- “Caymanian” means a person who possesses Caymanian status under the repealed Immigration Law (2003 Revision) or any earlier law providing for the same or similar rights, and includes a person who acquired that status under Part III;
- “Caymanian Status and Permanent Residency Board” means the Caymanian Status and Permanent Residency Board established under section 4(3);
- “Chairman” means the Chairman of the pertinent Board;
- “child” means the biological or adopted child, whether or not born in wedlock;
- “convicted and deportable”, in relation to a person, means a person in respect of whom any court-
- (a) certifies to the Governor that he has been convicted by that court, or by an inferior court from which his case has been brought by way of appeal, of any offence punishable with imprisonment otherwise than only in default of payment of a fine; and
 - (b) recommends that a deportation order should be made in his case, either in addition to or in lieu of sentence;
- “crew” means persons employed in the working or service of a vessel;
- “dependant”, in relation to a person, other than a person referred to in section 67 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;
- “deportation order” means an order made or in force under Part VIII requiring the person in respect of whom it is made to leave and remain out of the Islands;
- “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 and his dependants, if any;
- “Director of Boards and Work Permits” means the Director of Boards and Work Permits holding office under section 7(1);
- “disembark” includes alight from;
- “elderly person” means a person over the age of sixty-five years;
- 2009 Revision
- “electoral district” bears the meaning ascribed to that expression in section 2 of the Elections Law (2009 Revision);
- “employee” means a person who engages in gainful occupation in the service of himself 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 fifty per cent of the total number of employees are Caymanians unless overriding circumstances dictate a lower percentage;

“final work permit”, other than in section 52(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 his 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;

“fixed term work permit” means the special work permit that the Chief Immigration Officer may grant under section 52;

“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 V, a person so engaged is deemed to be working for gain or reward unless the contrary is proved;

“Governor” other than in section 40(2) means the Governor in Cabinet;

“handicapped person” 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;

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

“health practitioner” bears the meaning ascribed to that expression in the Health Practice Law (2011 Revision);

2011 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 11;

“immigration function” means a function of an immigration officer under this Law;

“immigration officer” means the Chief Immigration Officer or any other immigration officer holding office under section 3(1);

“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;

“keeper”, where used in relation to premises where accommodation is provided for reward, includes a person who, for reward, is licensed under the Tourism Law (1995 Revision) to provide accommodation to another to lodge in the premises whether on his own behalf or as a manager or otherwise on behalf of any other person;

1995 Revision

“key employee” means a person who has been identified by his employer and designated by the Work Permit Board or the Business Staffing Plan Board as such for having satisfied any criterion contained in section 49(4);

“land” means to go to, to be, to remain or to reside in any place in the Islands other than-

- (a) on board a vessel; or
- (b) in a place under the control of an immigration officer in his official capacity;

“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, save 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 he 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,

as the case may be; and a certificate issued by the Chief Immigration Officer shall be *prima facie* evidence of such fee;

“local agent”, in relation to a vessel, means-

- (a) the owner of the vessel, if the owner is in the Islands;
- (b) any corporate body owning or operating, whether under charter or otherwise, the vessel for the time being, where such corporate body maintains an office in the Islands; or
- (c) the agent in the Islands for the person or corporate body for the time being owning or operating the vessel;

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

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

“master of a vessel” includes the pilot of an aircraft or hovercraft;

“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 III, (other than sections 22 and 28), IV or V 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;

“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 therein;

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

- (a) under Part IV; 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;

“points system” means the guidelines set out in the Second Schedule to the Regulations whereby the Caymanian Status and Permanent Residency Board 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 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;

“prohibited immigrant”, has the meaning ascribed to it in section 82;

“refugee” bears the meaning ascribed to that expression in the Refugee Convention;

“Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on the 28th July, 1951 and the Protocol to the Convention;

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

“relevant matters” means any of the following-

- (a) a claim for asylum;
- (b) an application for a work permit, visa or an extension of permission to enter or remain in the Islands;
- (c) unlawful entry into the Islands;
- (d) an application for the right to be Caymanian;
- (e) an application to reside permanently in the Islands;
- (f) an application for a Residency and Employment Rights Certificate;
- (g) an application for a Residency Certificate for Persons of Independent Means;
- (h) removal or deportation from the Islands;
- (i) an application for bail for an immigration offence; or
- (j) 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 (i);

“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;

“seasonal worker” means a person who has been or may be granted a temporary work permit by the Chief Immigration Officer under section 53 for employment in the tourism, hospitality or water sports industry during the peak tourism season for a continuous period not exceeding eight months in any period of twelve months;

“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 his stay in the Islands; and
- (c) has not voluntarily emigrated with the intention of making his 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 present employer;

“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 handicapped person or a sick person;

“sponsor”, in relation to a tourist visitor, means a person who accepts responsibility for the tourist visitor’s care, upkeep and departure from the islands;

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

“stop list” has the meaning ascribed to it in section 81;

“student” means a non-Caymanian who is neither the spouse of a Caymanian, a permanent resident of the Islands nor 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 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 his 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 52(1) and (4);

“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 way to a destination other than the country from which he arrived;

“undesirable person” means a person who in the opinion of the Governor is, or has been, so conducting himself, whether within or outside the Islands, that his 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 or a fixed-term work permit has been or may be granted or renewed, respectively, under Part V;

“work permit” means a work permit granted under section 48, and, subject to section 56, includes a temporary work permit or a temporary work permit for seasonal workers granted under section 53; and

“Work Permit Board” means the Work Permit Board established under section 4(2).

PART II - Administration

Appointment of immigration officers

3. (1) There shall be a Chief Immigration Officer and such other immigration officers as are necessary for the purposes of carrying out this Law, who shall be public officers.

(2) Subject to subsection (3), immigration officers shall have all the rights, powers, privileges and immunities of a constable when discharging their duties under this Law and may, for that purpose, board and search any vessel.

(3) Specifically, the following senior immigration officers shall enjoy the same rights, powers, privileges and immunities when discharging their duties under this Law as their counterparts in Her Majesty’s Police Force as shown in the Table-

Immigration Officer	Police Officer
Assistant Chief Immigration Officer	Inspector
Deputy Chief Immigration Officer	Chief Superintendent

Immigration Boards

4. (1) There are established three Immigration 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 Governor save for those persons referred to in paragraphs (e) to (i) who shall be public officers and shall hold office by virtue of their public service appointment-

- (a) a Chairman;
- (b) a deputy Chairman;
- (c) for each electoral district, one member selected from among persons legally and ordinarily resident in that district;
- (d) not more than three other persons legally and ordinarily resident in the Islands;
- (e) the Chief Immigration Officer or his designate;
- (f) the Director of Boards and Work Permits or his designate;
- (g) the Director of Employment Relations or his deputy or other designate;
- (h) a Secretary; and
- (i) 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 Governor save for those persons referred to in paragraphs (e) to (h) who shall be public officers and shall hold office by virtue of their public service appointment-

- (a) a Chairman;
- (b) a deputy Chairman;
- (c) for each electoral district, one member selected from among persons legally and ordinarily resident in the district;
- (d) not more than three other persons legally and ordinarily resident in the Islands;
- (e) the Chief Immigration Officer or his designate;
- (f) the Director of Boards and Work Permits or his designate;
- (g) a Secretary; and
- (h) 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 Governor 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 Chairman;
- (b) a deputy Chairman;
- (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 of Employment Relations or his deputy or other designate;
- (f) the Chief Education Officer or his designate;
- (g) the Chief Immigration Officer or his designate;
- (h) the Director of Boards and Work Permits or his designate;
- (i) a Secretary; and
- (j) an assistant Secretary.

(5) Subject to this Law, the members of the Boards referred to in subsection (2)(e) to (i), subsection (3)(e) to (h) 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.

Cayman Brac and Little
Cayman Immigration
Board

5. (1) There is established a Board called the Cayman Brac and Little Cayman Immigration Board which shall consist of-

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

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

(3) The Governor 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 Governor 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, applied for by persons who are seeking gainful occupation in Cayman Brac or Little Cayman;
- (b) the determination of any ancillary matter connected with the grant of permits under paragraph (a); and

(c) such other functions and powers within the scope of this Law as the Governor may, from time to time, assign to it by regulation.

(7) Subject to subsection (8), sections 8, 9, 10, 14, 15, 16 and 18 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.

6. (1) The Chairman of a board may appoint committees comprising no fewer than three members of his Board including himself or his deputy, and may delegate to such committees any of the functions of his Board, save that-

Appointment and functions of committees

- (a) he shall, as soon as practicable, notify the Governor of the appointment of any such committee; and
- (b) either he or his deputy shall be the Chairman 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;
- (e) adjudicate appeals from the decisions of immigration officers; or
- (f) designate a worker as a key employee.

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

7. (1) There shall be a Director of Boards and Work Permits who shall be a public officer and to whom each Secretary shall report.

Appointment of Immigration Boards, Director of Boards and Work Permits and functions of Boards

(2) The duties of the Director of Boards and Work Permits shall include-

- (a) the planning and co-ordination of the activities of-
 - (i) the Boards; and
 - (ii) the Work Permit 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 Administration section;
- (c) meetings with the public, at his sole discretion, in relation to immigration matters; and
- (d) attending to administrative matters assigned to him by the Chief Immigration Officer.

(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 other than for an employer with a Business Staffing Plan Certificate; and
 - (ii) the adjudication of appeals from the decisions of immigration 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 Governor 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

8. (1) Each Board shall meet at least once in every calendar month and upon such other occasions as, in the opinion of its Chairman, may be necessary or desirable in the public interest.
- (2) Any member of a Board who, without obtaining the prior written permission of the Chairman, 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 Chairman and the deputy Chairman at any meeting, the members present may elect one of their number to preside as Chairman 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 Chairman 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, he 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.

9. (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 he shall not disclose any such fact or particular otherwise than in the proper performance of his 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 his appointment.

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

10. (1) Those members of a Board who are not public officers shall receive such remuneration in respect of each meeting attended, and the Chairman and deputy Chairman shall receive such additional remuneration, as may be determined, from time to time, by the Governor. 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 him in the discharge or purported discharge of his functions or duties under this Law except claims, damages, costs, charges or expenses caused by his bad faith.

11. (1) For the purposes of this Law there is established an Immigration Appeals Tribunal which shall consist of the following members- Immigration Appeals Tribunal

- (a) a Chairman;

- (b) two deputy Chairmen; and
- (c) twelve other members,

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

(2) The Chairman shall be an attorney-at-law of at least seven years call to the bar; and each deputy Chairman 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 Chairman so directs, sit in two divisions simultaneously or otherwise, each division presided over either by the Chairman or by a deputy Chairman sitting together with no fewer than four 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 Governor shall appoint as many Secretaries as he considers necessary to the Immigration Appeals Tribunal who shall record and 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

12. (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 Chairman, 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 Chairman, 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 Chairman or in the event of his inability to act, the deputy Chairman shall act as Chairman and exercise all the powers and functions of Chairman.

(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 Chairman or presiding member shall have no original but only a casting vote; and
- (c) five 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, he 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 19, the Immigration Appeals Tribunal shall have power to regulate its own procedure.

13. Sections 9 and 10 apply to the Immigration Appeals Tribunal as if references in those sections to the Boards were references to the Immigration Appeals Tribunal.

Application of sections 9 and 10 to the Immigration Appeals Tribunal

14. (1) Subject to subsections (2) and (5), any person aggrieved by, or dissatisfied with, any decision of an immigration officer may, within seven days of the communication of the decision to him, 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 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.

Appeals from decisions of immigration officer

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

- (a) to refuse permission to enter the Islands;
- (b) to refuse permission to remain in the Islands in circumstances where the appeal is against the decision to grant an extension beyond the final extension already granted, and the appeal is lodged prior to the expiration of that final extension;
- (c) to revoke permission to remain in the Islands;
- (d) to refuse an application for the grant of a student's visa or the extension thereof or to attach conditions to such grant;
- (e) to refuse or revoke a temporary work permit; and
- (f) to refuse an application for a Residency Certificate for Persons of Independent Means.

(3) Pending the outcome of an appeal under this section-

- (a) an appellant under subsection (2)(a) and (c) shall leave the Islands; and
- (b) an appellant under subsection (2)(b) and (d) to (f) shall be allowed to remain in the Islands.

(4) Notwithstanding subsection (3)(a), where a passenger holds a valid visa to enter the Islands he may appeal, from within the Islands, the decision of the immigration officer to refuse him entry.

(5) 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)(f) shall be heard by the Caymanian Status and Permanent Residency Board; and
- (b) the decision of an immigration 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.

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 37C or 42(5) 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 Immigration Appeals Tribunal may, for good reason shown, allow,

appeal there from by way of rehearing to the Immigration Appeals Tribunal, and matters referred to the Tribunal may not be remitted to that Board or to the Chief Immigration Officer.

(2) An appeal under subsection (1) may be lodged on the ground that it is-

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

(3) Where the Immigration Appeals Tribunal sends notice of its decision to the appellant by post, such notice shall be deemed to have been communicated to the appellant at the time at which it should have been received by him in the ordinary course of post.

Conduct of appeals

16. (1) Appeals under sections 14 and 15 shall be by notice in writing addressed to the Secretary of the Board or of the Immigration Appeals Tribunal, as the case may be, and such notice-

- (a) shall set forth-
 - (i) the decision against which the appeal is made;
 - (ii) whether or not the appellant wishes to be heard personally or by a representative; and
- (b) shall be accompanied by a copy of the original application and in the case of an appeal to the Immigration Appeals Tribunal, by the prescribed non-refundable processing fee.

(2) On receipt of the notice of appeal the Appellate 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.

(3) Within twenty-eight days of receipt of the notice referred to in subsection (2), the Chief Immigration Officer or the Board, as the case may be, shall deliver to the Board or the Immigration Appeals Tribunal, as the case may be, and the appellant the reasons for his or its decision.

(4) The appellant shall, within twenty-eight days of receipt of the reasons referred to in subsection (3), file his grounds of appeal with the Board or the Immigration Appeals Tribunal, as the case may be, and serve a copy thereof on the Chief Immigration Officer or the Board.

(5) The Chief Immigration Officer or the Board may, within twenty-eight days of the receipt of the grounds of appeal referred to in subsection (4), provide a written defence which shall be filed with the Board or the Immigration Appeals Tribunal, as the case may be, and served on the appellant.

(6) Where the appellant has applied to be heard personally or by a representative, the Appellate Tribunal shall fix a time and a date for such hearing and notify the appellant and, as the case may be, the Chief Immigration Officer or the Board thereof.

(7) Appeals to the Immigration Appeals Tribunal shall be by way of rehearing.

(8) The Immigration Appeals Tribunal, when hearing an appeal, may take into account fresh evidence and any change in circumstances that may have arisen in relation to the parties.

(9) At every hearing of an appeal where the appellant or his representative is present, the appellant or his representative shall be given an opportunity to address the Appellate Tribunal, and the Chief Immigration Officer or his representative or the representative of the Board, as the case may be, shall be heard in answer, but the Appellate Tribunal may, in its absolute discretion, call upon either party further to address it.

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

(11) The decision of the Appellate Tribunal shall be notified to the appellant with the least possible delay.

17. (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.

Orders of Immigration Appeals Tribunal and appeals from its decisions

Decisions to be administrative

18. (1) Decisions made under or by virtue of sections 7, 14 and 15 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 decision.

(2) Where a Board rejects an application under section 22, 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 to inform an applicant of the right of appeal referred to in subsection (2) shall not of itself give rise to a right of appeal under section 15, 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 gives them to the applicant within thirty days of having made the decision.

Rules relating to appeals

19. 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.

PART III - Provisions Relating to Caymanians

Categories of Caymanians

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

- (a) he is Caymanian at the 1st January, 2004;
- (b) he is Caymanian as of right as defined in section 21;
- (c) he is Caymanian by grant of the Caymanian Status and Permanent Residency Board under section 22;
- (d) he has obtained the right by entitlement; or
- (e) the Governor, acting on the recommendation of the Caymanian Status and Permanent Residency Board, grants such right to him and that grant is subsequently ratified by the Legislative Assembly; save that the Governor shall not make more than four such grants in any calendar year,

and he shall continue to possess and enjoy the right to be Caymanian unless and until he loses it under section 27.

(2) A person who believes that he possesses the right to be Caymanian under subsection (1) may apply in the prescribed form to the Chief Immigration Officer for the formal acknowledgement of that right in his passport, and the Chief Immigration Officer shall, within fourteen days, either provide the acknowledgement or give written reasons for his refusal to do so.

(3) Where, by application of law, a person loses his right to be Caymanian, the Chief Immigration Officer may cancel the passport acknowledgement referred to in subsection (2).

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

(5) Notwithstanding subsection (1)(b) and (d), where a Caymanian holds himself 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) he 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), he has been adjudged to be the putative father of the child; or
- (c) he has been ordered to pay a weekly sum of money for the maintenance and education of the child.

1995 Revision

21. In this Part-

Caymanian as of right

“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 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 parents was Caymanian otherwise than by descent; or
- (c) acquiring the status of Caymanian under section 21 of the repealed Immigration Law (2003 Revision) or under any earlier law conferring the same or similar rights.

2003 Revision

22. (1) The Caymanian Status and Permanent Residency Board may, subject to section 24, grant the right to be Caymanian to any of the persons referred to in this section.

Acquisition of right to be Caymanian by grant of the Board

(2) Any person who-

- (a) has attained the age of eighteen years;
- (b) satisfies the Board that he is the child or grandchild of a Caymanian born in the Islands;
- (c) is legally and ordinarily resident in the Islands; and
- (d) is not otherwise entitled to the right to be Caymanian,

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

UK Act (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 by virtue of his connection with the Islands, or any Act preceding, amending or replacing that Act, may, if he 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) Any 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 spouse under a decree of a competent court or under a deed of separation;
- (d) who has not lived apart from his 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 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 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 Chief Immigration Officer for the right to permanently reside in the Islands and the Chief Immigration Officer shall take into account the applicant's health and character.

(8) Where, under subsection (7), permanent residence is granted, 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 within the Islands such of his dependants as were listed in his application and were approved by the Chief Immigration Officer,

but the Certificate shall restrict him to working within the particular occupation specified by the Chief Immigration Officer; and such certificate may be varied by the Chief Immigration Officer.

- (9) A person who-
- (a) has attained the age of seventeen years;
 - (b) has Caymanian status which-
 - (i) will expire when he attains the age of eighteen years; or
 - (ii) has expired upon his 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 he attains the age of eighteen years or, where he 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 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 15, on the grounds that the Board came to a wrong decision on the question of whether during any material period he was or was not legally and ordinarily resident in the Islands.

(11) The Board, in its discretion, may require or allow any applicant to attend before it or any committee of the Board in support of his 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 the right to be Caymanian may, subject to section 15, appeal to the Immigration Appeals Tribunal against such refusal.

23. 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,

Persons who may apply to the Chief Immigration Officer for the right to be Caymanian

may, within one year from the 21st December, 2006, apply to the Chief Immigration Officer for the right to be Caymanian and the Chief Immigration Officer shall, save in exceptional circumstances, grant such application.

24. 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 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 a danger to the community;
- (g) the applicant has not been involved in organising or engaging in any subversive political activity, nor has he organised, caused or promoted racism or any illegal activity within the Islands;
- (h) the continued residence of the applicant and his family will contribute to the well being 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.

Procedure in relation to applications for grant under section 22

25. (1) Applications under section 22, which shall be made to the Board through the Secretary shall-

- (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) A copy of every application shall be forwarded by the Secretary to the Commissioner of Police, who may make such representations to the Board as he may deem proper.

(3) In granting or rejecting an application under section 22, the Board shall be deemed to have acted administratively and not judicially.

(4) 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.

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

- (a) is qualified under any subsection of section 22 to apply for the grant of the right to be Caymanian; and
- (b) made an application under that subsection,

and the application was rejected, he may apply at any time after such rejection under any other subsection of section 22 under which he is also qualified to apply.

Record to be kept of applications and grants

26. 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 Chairman or by the Governor, as the case may be, in the form in the Schedule and shall cause notice thereof to be published in the Gazette.

Loss of right to be Caymanian

27. (1) The right to be Caymanian granted by the Board may be lost-

- (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;
- (d) where within three years of the grant of the right to be Caymanian, or to have Caymanian status, to the spouse of a Caymanian under section 22(4) of the Immigration Law, 2003 or under the Immigration Law (2003 Revision), the marriage of the holder-
 - (i) in the opinion of the Board has irretrievably 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.

Law 34 of 2003
2003 Revision

(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 he 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 Chief Immigration Officer forthwith of the relevant circumstances involving his 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 22, 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 right to appeal to the Immigration Appeals Tribunal as hereinafter provided;
- (b) if the person affected is aggrieved by the order, he may, subject to section 15, 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 Chief Immigration Officer of the order and shall cause notice thereof 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 had never acquired, possessed or enjoyed the right to be Caymanian and the provisions of this Law shall thenceforward 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 22.

Revocation on conviction

28. Where the grantee of the right to be Caymanian or of Caymanian status under this or any earlier law is convicted by any court of an offence-

- (a) for which he 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 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 own motion.

PART IV - Permanent Residence

Categories of permanent residence

29. (1) The Caymanian Status and Permanent Residency Board may grant to non-Caymanian applicants-

- (a) the right to reside permanently in the Islands, to persons who have been legally and ordinarily resident in the Islands for a minimum period of eight years; and
- (b) the Residency and Employment Rights Certificate, to spouses of Caymanians.

(2) Subject to section 34, the Chief Immigration Officer may grant the right to reside in the Islands to persons of independent means.

(3) 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-

UK Act

- (a) he ceases to be a British Overseas Territories Citizen;
- (b) he 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 Governor rules otherwise;

- (c) the Governor is satisfied that the grant of the certificate was obtained by fraud, false representation or the concealment of any material fact;
- (d) he engages in gainful occupation or any trade or business without the permission of the Work Permit Board; or
- (e) he falls into one of the categories enumerated in section 38.

30. (1) The following persons who have been 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;
- (ba) the holder of a Certificate of Direct Investment or a Direct Investment Holder's (Dependant's) Certificate;
- (bb) an employee named in a Certificate for Specialist Caregivers; or
- (c) a person who was granted permanent residence under any earlier law in circumstances analogous to paragraphs (a) and (b),

may apply in the prescribed form and manner to the Board for permission for himself, his spouse and his dependants, if any, to reside permanently in the Islands, namely a person who-

- (i) continues to be so resident; or
- (ii) having ceased to be so resident, submits his application within ninety days of such cessation.

(2) Where a worker falls within section 52(4)(d) and his period was fifteen years or more and he has applied for a grant of permanent residence under this section he shall, in the absence of exceptional circumstances, be granted permanent residence by the Board.

(3) For the purpose of assessing the suitability of an applicant for permanent residence other than a person referred to in subsection (2), a points system shall be prescribed by the Governor.

(4) In considering an application for permanent residence under subsection (1), the Board upon applying the criteria set out in the points system shall grant permanent residence to all applicants attaining one hundred 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(6), unless he is entitled to remain by virtue of any other provision of this Law.

(6) Upon the grant of permanent residence, the Board 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 within the Islands such of his dependants as were listed in his application and were approved by the Board,

but the certificate shall restrict him to working within the particular occupation or occupations specified by the Board; and such certificate may be varied by the Board.

(7) 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 of the fact and the Board shall amend the certificate to include any additional children subject to such conditions as the Board may, in its absolute discretion, determine.

(8) Where any person possesses permanent residence granted under any law that has been repealed, the Caymanian Status and Permanent Residency Board 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 for the grant of a Residency and Employment Rights Certificate in his own right.

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

(10) Upon the death of the holder of a Residency and Employment Rights Certificate or upon the dissolution of the marriage, the right of the surviving spouse to reside in the Islands may be revoked at the discretion of the Board but the said surviving spouse may, within a period of three months of any revocation, apply for the grant of a Residency and Employment Rights Certificate upon satisfying the requirements of this section.

(11) Where an application for a Residency and Employment Rights Certificate has been made 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 determines the application.

(12) The right of a dependant child to reside in the Islands as a dependant shall cease upon completion of his full-time tertiary education or when he reaches the age of twenty-four years, whichever happens earlier.

(13) 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 shall approve the application.

(14) Where a person who was a worker leaves the Islands pursuant to section 52 and returns at anytime thereafter for any purpose and period of time other than as the holder of a work permit or as an employee of the Government of the Islands or of the Government of the United Kingdom in the Islands, the residence of that person in the Islands during such period shall be deemed not to be legal and ordinary residence for the purposes of sections 29 and 30.

31. (1) The spouse of a Caymanian may apply to the Chief Immigration Officer and thereafter to the Caymanian Status and Permanent 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 six months or seven years, respectively; and a Residency and Employment Rights Certificate-

Residency and
Employment Rights
Certificate for spouse of
a Caymanian

- (a) when granted by the Board, shall be renewable at the discretion of the Board; and
- (b) when granted by the Chief Immigration Officer, shall not be renewable.

(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 Chief Immigration Officer 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 spouse have sufficient financial means to support himself and his dependants listed on the application as accompanying him.

(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 dependants as were listed on the application and were approved by the Board reside in the Islands-
 - (i) until they have attained the age of eighteen years; or
 - (ii) if they are pursuing full-time tertiary education, until they have attained the age of twenty-four years or completed such education, which ever happens earlier.

(5) Subsection (4)(b), insofar as it relates to the listing of dependants and their approval by the Board, 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 he was entitled immediately prior to the 21st December, 2006.

(6) The spouse of a Caymanian shall have no right to be gainfully occupied 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, at the 21st December, 2006, in respect of such spouse-

- (a) a work permit is in force, he may continue to work under the terms and conditions of the permit until its expiration; or
- (b) an application for a work permit was received but did not come before the Board until after that date, the Board shall give consideration to such application using the law that was in effect immediately before that date, namely the Immigration Law, 2003.

Law 34 of 2003

(7) Notwithstanding subsection (6), whenever the Board is satisfied that there are exceptional circumstances it 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.

(8) Notwithstanding subsection (6)-

- (a) where the spouse of a Caymanian is the holder of a Residency and Employment Rights Certificate granted by the Chief Immigration Officer, he may, if application is made to the Board for a Residency and Employment Rights Certificate prior to the expiration of the certificate granted by the Chief Immigration Officer, continue working until such time as his application is determined by the Board, or where he has appealed the Board's decision, by the Immigration Appeals Tribunal;
- (b) where the holder of a Residency and Employment Rights Certificate granted by the Board applies prior to its expiration to have it renewed, he may continue working after it has expired

until such time as his application is determined by the Board, or where he has appealed the Board's decision, by the Immigration Appeals Tribunal; and

- (c) where the spouse referred to in paragraph (a) is the holder of a work permit and he applies for a Residency and Employment Rights Certificate prior to the expiration of his work permit, he may continue to work during the period between the expiration of the work permit and the final determination of his application for the said Certificate by the Board, or where he has appealed the Board's decision, by the Immigration Appeals Tribunal.

(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 shall approve his application.

32. A dependant of a Residency and Employment Rights Certificate holder, having attained the age of eighteen years, may apply to the Board for a Residency and Employment Rights Certificate and shall, at the discretion of the Board, be granted the right to permanently reside in the Islands under section 30(1) if-

Dependants of
Residency and
Employment Rights
Certificate holders

- (a) he was declared in the original application for the Certificate;
- (b) he is found to be of good character and conduct;
- (c) he 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.

33. (1) 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 marriage to the holder of a Residency and Employment Rights Certificate under section 30(9) shall forfeit his rights under that Certificate if-

Loss of Residency and
Employment Rights
Certificate

- (a) he falls within any of the provisions of section 38;
- (b) his spouse ceases to be a Caymanian or to be a Residency and Employment Rights Certificate holder;
- (c) within ten years of the marriage, it is dissolved or annulled;
- (d) he ceases to be legally and ordinarily resident in the Islands; or
- (e) he and his 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, the marriage has irretrievably broken down.

(2) The holder of a Residency and Employment Rights Certificate who is or was the spouse of a Caymanian and who is the parent of a Caymanian child may apply to the Board for a continuation of the Residency and Employment Rights Certificate-

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

(3) Where the holder of a Residency and Employment Rights Certificate is the surviving spouse of a Caymanian, he shall be allowed to make representations to the Board on his own behalf following which the Board may, in its discretion-

- (a) revoke the Certificate; or
- (b) allow the continuation of the Certificate.

Residency Certificate for
Persons of Independent
Means

34. (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 Chief Immigration Officer for a 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 Chief Immigration Officer, if he satisfies the Chief Immigration Officer that-

- (a) he has no serious criminal conviction;
- (b) he is in good health and possesses adequate health insurance coverage; and
- (c) he has attained the financial standing required by subsection (3).

(3) The applicant will be deemed to have attained the financial standing referred to in subsection (2) if, as a minimum he can show that he has-

- (a) a continuous source of annual income in the prescribed amount without the need to engage in employment in the Islands;
- (b) invested the prescribed sum in developed residential real estate in the Islands; and
- (c) made other local investments in the prescribed amount.

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

35. (1) The spouse and such dependants of the holder of a Certificate for Persons of Independent Means as were listed on the application and were

approved by the Chief Immigration Officer shall be granted a Residency Holders (Dependant's) Certificate, the holder of which is permitted, subject to this section, to reside in the Islands without the right to work.

(2) Upon the death of the holder of a Residency Certificate 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 Chief Immigration Officer but the said 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 upon satisfying the requirements of this section.

(3) Where an application for a Residency Certificate for Persons of Independent Means has been made 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 of the revoked certificate until the Chief Immigration Officer determines the application.

36. (1) The right of a child to reside in the Islands as a dependant shall cease upon completion of his full-time tertiary education or when he reaches the age of twenty-four years, whichever happens earlier.

Dependants of the holder of a Residency Certificate for Persons of Independent Means

(2) Where a Residential Certificate for Retirees was issued under section 33 of the Immigration Law, 2003 or where a Residency Certificate for Persons of Independent Means was issued under section 33 of the Immigration (Amendment) (No.2) Law, 2006, the Chief Immigration Officer may vary it.

Law 34 of 2003

Law 35 of 2006

(3) A dependent child of the holder of a Residency Certificate 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 30.

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

Revocation of Residency Certificate for Persons of Independent Means
Law 34 of 2003

- (a) he fails to maintain his financial standing stipulated in section 34;
- (b) he 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 Chief Immigration Officer, any of the matters referred to in section 38(a) to (j) applies to the holder.

Certificate of Direct
Investment

37A. (1) A person who has a personal net worth in the prescribed amount and who-

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

2007 Revision

2007 Revision

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

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

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

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

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

Direct Investment valid for twenty-five years renewable on application and at the discretion of the Chief Immigration Officer.

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

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

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

(6) The spouse and dependant children (where applicable) of the holder of a Certificate of Direct Investment shall be granted a Direct Investment Holder's (Dependant's) Certificate, the holder of which is permitted, subject to this section, to reside in the Cayman Islands.

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

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

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

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

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

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

Revocation of
Certificate of Direct
Investment

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

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

Certificate for Specialist
Caregivers

37C. (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 Chief Immigration Officer for the grant 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) (i) the employee or prospective employee shall hold a final work permit;
- (ii) where the employee or prospective employee held a final work permit which has expired, the application for employment under a Certificate for Specialist Caregivers

- may be made if the employee or prospective employee is otherwise legally resident in the Islands;
- (iii) where the employee or prospective employee held a final work permit which has expired and the employee or prospective employee 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;
 - (iv) the employee or prospective employee shall hold a final non-renewable work permit issued under section 52(10); or
 - (v) where the employee or prospective employee held a final non-renewable work permit issued under section 52(6) which has expired, the application for employment under a Certificate for Specialist Caregivers may be made if the employee or prospective employee is otherwise legally resident in the Islands as a visitor,
- and in relation to subparagraphs (i) to (v), such final work permit or final non-renewable work permit is or was for employment by an employer (including, the Government or a nursing home approved by the Governor) as a domestic helper, nurse or nanny, or in some other care giving capacity;
- (b) the employee or prospective employee 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 prior to the application;
 - (c) the employee or prospective employee is or was employed for the purpose of caring for a sick person, elderly person or handicapped person; and
 - (d) the employee or prospective employee is in good health and possesses health insurance coverage.

(3) Where, having received an application under subsection (1), the Work Permit Board or the Chief Immigration Officer, as the case may be, is satisfied that the criteria in subsection (2) are met, the Work Permit Board or the Chief Immigration Officer, having regard to the criteria contained in section 44(3) may, upon payment of the prescribed fee, issue a Certificate for Specialist Caregivers, valid for five years, to take effect upon the expiry of the employee's final work permit or final non-renewable work permit or, in the event that the employee's final work permit or final non-renewable work permit has expired, upon the date of the decision of the Board or the Chief Immigration Officer; and such Certificate shall be renewable for a period of five years, on application to the Board or the Chief Immigration Officer 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 he has been, or was, employed prior to the expiry of his final work permit 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 handicapped person named in the Certificate.

(6) Where, during the currency of a final work permit or a final non-renewable work permit, an application has been made to the Work Permit Board or the Chief Immigration Officer for the issue of a Certificate for Specialist Caregivers to commence immediately upon its expiration, or an application for the renewal of a Certificate has been made prior to its expiry, then if such application -

- (a) has not yet been determined by the Work Permit Board or the Chief Immigration Officer; or
- (b) has been refused by the Work Permit Board or the Chief Immigration Officer and that refusal has been appealed under section 15 to the Immigration Appeals Tribunal within the prescribed time for doing so,

notwithstanding the fact that the final work permit, final non-renewable work permit 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 of the same kind and on the same terms and conditions of the final work permit, the final non-renewable work permit or the Certificate for Specialist Caregivers while he awaits a notification of the determination of his application or his 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) Any period of residence in the Islands in employment authorized by a Certificate for Specialist Caregivers shall be deemed not to be legal and ordinary residence for the purposes of sections 29 and 30.

(9) An application for the renewal of a Certificate for Specialist Caregivers may be refused and a Certificate may be revoked by the Work Permit Board or the Chief Immigration Officer 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 cared for dies or ceases to be a sick person or a handicapped person; or
- (c) in the opinion of the Work Permit Board or the Chief Immigration Officer, any of the matters referred to in section 38(1)(a) to (j) applies to the employee named in the Certificate.

(10) Upon the expiry of a Certificate for Specialist Caregivers, and where no application is made for its renewal, or an application is made but is refused and no appeal has been made, the employee named in the Certificate shall leave the Islands 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.

38. (1) Without prejudice to the rights of the Board to revoke permanent residency under this Law, the Board may declare that any person who has been granted permission to remain permanently in the Islands has ceased to enjoy such permission where-

General provisions
relating to loss of
permanent residency

- (a) he organises or engages in subversive political activity, or organises, causes or promotes racism within the Islands;
- (b) the Board is satisfied that 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, 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 (1997 Revision);
- (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 purposes 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 is deemed by the Governor to be an undesirable inhabitant of the Islands; or
- (k) he has been ordinarily resident outside the Islands continuously for a period of one year or more.

1997 Revision

(2) Where the substantive holder of permanent residence loses his 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 being a dependant of the substantive holder, shall be allowed to make representations to the board on his own behalf as to why he should not lose his right to permanent residence and the Board in its discretion shall determine the matter.

Qualification for legal and ordinary residence in Part IV

39. 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, where applicable, the Chief Immigration Officer; and
- (b) nothing in this subsection shall have effect so as to preclude any person from appealing to the Immigration Appeals Tribunal under section 15 on the grounds that the Board or where applicable, the Chief Immigration Officer came to the wrong decision on the question of whether during any material period he was or was not legally and ordinarily resident in the Islands.

PART V - Gainful Occupation of Non-Caymanians

Persons exempted

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

- (a) (i) a person employed by the Government of the Islands in respect of his employment;
- (ii) a person employed in the Islands by the Government of the United Kingdom;
- (iii) a consular officer and his 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 Governor 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 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 his discretion, shall be final in determining whether or not a person falls within one of the categories (i) to (v) referred to in paragraph (a) of subsection (1).

41. No person shall carry on gainful occupation in the Islands unless-

Who may be gainfully occupied

- (a) he is Caymanian;
- (b) he has acquired permanent residence with a right to work under this or any earlier law;
- (c) he 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) he is authorised to do so by a work permit granted under this or any earlier law; or
- (e) he is a person entitled to work under any other provision of this Law.

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

Application for work permit

(2) All or any of the powers conferred upon the Chief Immigration Officer under subsection (5) may be delegated by him to any members of his staff.

(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 Chief Immigration Officer, 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 Chief Immigration Officer or his designate shall process applications and otherwise make determinations in respect of-

- (a) the grant or renewal of a work permit except for those referred to in subsection (6);
 - (b) the grant of a work permit under section 52(12);
 - (c) the grant of a final (non-renewable) work permit where permanent residence has been refused; and
 - (d) an amendment to a work permit except for those referred to in subsection (6)(c).
- (6) For the avoidance of doubt, nothing contained in this section shall derogate from the powers of the Boards to process applications of the types referred to in subsection (5) and those in respect of-
- (a) the grant or renewal of work permits where-
 - (i) a Caymanian had applied and was rejected for the post;
 - (ii) there is a signed complaint against a prospective employee on file; or
 - (iii) the data base of the Department of Employment Relations identifies a Caymanian as being capable and available for the position;
 - (b) key employees;
 - (c) promotions and re-designations;
 - (d) the revocation of work permits;
 - (e) the grant, renewal or amendment of a Business Staffing Plan; and
 - (f) the waiver of the requirement to advertise a position.
- (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 Chief Immigration Officer or his designates entertain an application under subsection (3) or section 53, it shall be his or their responsibility, as the case may be, to record and keep all minutes of the meetings and proceedings, including decisions taken.

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

43. In performing the functions of granting or renewing work permits, sections 44, 48, 55 and 56 with necessary amendments shall be construed as applying also to the Cayman Brac and Little Cayman Immigration Board.

Consideration of application for work permit by Board or Chief Immigration Officer

44. (1) The Work Permit Board, the Business Staffing Plan Board or the Chief Immigration Officer, as the case may be, in considering an application under section 42-

- (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 Governor 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) he has demonstrated his genuine need to engage the services of the prospective worker;
 - (b) he has, unless he has been exempted by the Governor or by the Board, sought, by advertising in at least two issues for two consecutive weeks in a local newspaper, 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 Chief Immigration Officer, as the case may be, is satisfied as to the extent to which he has established adequate training or scholarship programmes for Caymanians.
- (3) In relation to the worker-
 - (a) his character, reputation and health, and where relevant, the character, reputation and health of his dependants;
 - (b) his professional and technical qualifications and his experience and competence to undertake the position applied for;
 - (c) the economic and social benefits which he may bring to the Islands;
 - (d) the sufficiency of the resources or the proposed salary of the worker and, where his spouse is employed within the Islands, those of his spouse, and his or their ability to adequately maintain his or their dependants;
 - (e) his facility in the use of the English language; and
 - (f) the location, type and suitability of the accommodation available for the worker and his 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 44(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 24(j) and such other matters that may arise from the application.

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

Business Staffing Plan

45. (1) Every company, firm or other business enterprise which-

- (a) has carried on business for six months or more on or after the 1st January, 2004; and
- (b) employs fifteen or more persons on work permits,

shall, no later than the 31st March, 2007, submit to the Business Staffing Plan Board, a Business Staffing Plan in accordance with the Third Schedule to the Regulations.

(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 the Third Schedule 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 the Third Schedule 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 his Business Staffing Plan and he shall not be regarded as being in breach of subsection (1) or (2) if the application for the renewal of his Plan was submitted before the date of the expiration of the certificate; and, where the certificate expires prior to the renewal of his Plan, he shall be entitled to operate under the terms and conditions of his Plan pending the renewal.

(5) Subject to subsection (6), neither the Work Permit Board, the Cayman Brac and Little Cayman Immigration Board nor the Chief Immigration Officer may entertain an application for a work permit or a temporary 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 or a temporary 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 or temporary work permit, as the case may be, notwithstanding section 56(2), save that upon the applicant filing his Business Staffing Plan, 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.

(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 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 Chief Immigration Officer are of the opinion, having first made enquires 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 Chief Immigration Officer 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; and where the application is in respect of a worker who was employed on a work permit or a temporary 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 or temporary work permit, as the case may be, notwithstanding section 56(2).

46. In considering an application for a work permit for a professional employee, the Work Permit Board, the Business Staffing Plan Board or the Chief Immigration Officer, as the case may be, shall-

Responsibility of the Board in processing applications for professional employees

- (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 field; and
- (ii) he is legally and ordinarily resident in the Islands or intends to be so legally and ordinarily resident.

Employers in need of domestic helpers

47. The Board or the Chief Immigration Officer, as the case may be, shall give priority to employers who show a special need for work permits for domestic helpers.

Grant or refusal of work permit

48. (1) Subject to section 52, the Board or the Chief Immigration Officer in considering an application under section 42 may-

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

(2) Subject to section 52, on the grant of an application under section 42, 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 Chief Immigration Officer may determine, save that the Board or the Chief Immigration Officer may grant a work permit for a period of up to five years to-

- (a) domestic helpers;
- (b) teachers, doctors, nurses and ministers of religion; and
- (c) workers for positions authorised by the Board in a Business Staffing Plan Certificate,

and the work permit shall be endorsed with particulars of the conditions and limitations, if any, imposed by the Board or the Chief Immigration Officer on the grant.

(3) Upon granting an application under section 42 with respect to a worker of eighteen years of age or older, the Board or the Chief Immigration Officer shall cause to be taken and retained electronically, the worker's fingerprints.

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

(5) The granting under this section of a self-employed work permit shall confer on the applicant therefor the right to be granted, on the payment of the prescribed fee under the Trade and Business Licensing Law (2007 Revision), any licence required under that Law for the carrying on of the gainful occupation

2007 Revision

authorised by the work permit, but such grant shall not of itself confer any right to a licence under the Local Companies (Control) Law (2007 Revision).

2007 Revision

(6) The work permit shall contain the names of any dependants of the employee in respect of whom permission to reside with him during the currency of the work permit has been granted by the Board or the Chief Immigration Officer.

(7) The Board or the Chief Immigration Officer 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 provisions of section 44 (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 Chief Immigration Officer 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 he 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 on any of the following grounds-

- (a) that there is refusal or inability on the part of the applicant and his spouse, if relevant, to properly support his 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 or has been fined by an immigration officer of the rank of Assistant Chief Immigration Officer or above;
- (f) that the work permit holder has been promoted or re-designated by his employer without the prior approval of the Board;
- (g) that the applicant is in the Islands as a tourist visitor;
- (h) that the Board or the Chief Immigration Officer considers that the applicant has not fully met any of the requirements of section 44;
- (i) for any of the matters referred to in section 44(2) to (4) that the Board or the Chief Immigration Officer in its discretion considers appropriate;
- (j) that, in respect of an application for a temporary work permit, the Chief Immigration Officer is of the opinion that the number or frequency of temporary work permits previously obtained or continuing to be sought in respect of a worker suggests more than temporary employment and constitutes a deliberate attempt to circumvent the operations of the provisions of section 52(1) and (20); or
- (k) that the applicant failed to give the written undertaking referred to in section 42(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 him and he 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.

Key employees

49. (1) An employer may make an application pursuant to subsection (4) to the Board to nominate a worker as a key employee either on the grant or in the case of an existing worker, at any time prior to the expiration of-

- (a) his final work permit as prescribed under section 52(1) or (4); or
- (b) his fixed-term work permit,

but where the worker's fixed-term work permit has expired or will expire between the 1st December, 2006 and the 15th January, 2007, application may be made during this period to have the worker designated a key employee and any such worker may continue to work on the same terms and conditions of his fixed-term

work permit unless and until the Board denies the application under subsection (4).

(2) Where applicable, the worker nominated by his employer under this section to be a key employee may, upon the expiration of his final work permit issued under section 52(1) or (4) or his fixed-term work permit, continue to work on the terms and conditions of his final work permit or his fixed-term work permit unless and until such time as the Board denies his employer's application to designate the worker as a key employee under subsection (4).

(3) Any time spent by a worker within the Islands after the expiration of his final work permit under section 52(1) or (4) or his fixed-term work permit pending the decision of the Board pursuant to subsection (4) shall not be taken into account by the Board in determining his length of legal and ordinary residence in respect of an application for permission to reside permanently in the Islands under section 30 in the event the Board denies the employer's application to designate the worker as a key employee.

(4) Before the Board can designate a worker as a key employee, the employer shall, at the time of such application, provide such particulars as to satisfy the Board that the worker fulfils one or more of the following requirements and if so satisfied the Board may designate the worker as a key employee after taking into account such particulars, if any, under section 44(3) or (4) as relate to the application-

- (a) he is recognised as having particular expertise in his field of practice, trade or employment and the Board recognises that there is difficulty in attracting such persons to the Islands or retaining such persons within the Islands;
- (b) he is or will be directly involved in training Caymanians or developing their skills in the field in which he is employed or practises and his expertise in this regard is important to the effective continuation of such training or development;
- (c) he is a professional employee whose expertise and skills are in short supply globally and are not available in adequate measure in the Islands and it is of economic and social benefit to the business or the Islands to attract such skills to the Islands;
- (d) his absence from the Islands will cause serious hardship to his employer, to Caymanians, or be detrimental to the Islands;
- (e) his business contacts are, or will be, of importance to the continued success of the business or its contribution to the Islands;
- (f) there exist other economic or social benefits to the Islands by virtue of securing or retaining his specialist skills or expertise; or

- (g) the circumstances of his particular case are considered by the Board to be exceptional and to justify a special reason to employ him or to allow him to be designated as a key employee.

(5) Where a worker is designated as a key employee by the Board pursuant to subsection (4), upon application by his employer for renewal of his work permit, a presumption shall exist in favour of renewals until that worker has reached his term limit save that such a presumption may be rebutted-

- (a) by any findings under section 44(4)(a), or section 48(9) and (10); or
- (b) where the key employee is in breach of any obligation placed upon him by his employer for the purposes of being designated as a key employee or he no longer meets the criteria upon which he was so designated as a key employee.

(6) The Governor may in accordance with regulations, which shall be subject to negative resolution, determine from time to time by way of policy directions to the Board that any workers employed in certain professions or vocations, or any categories thereof, are to be designated as key employees; and the Board-

- (a) upon receiving an application to designate a worker on the basis that he falls within the provisions of this subsection; and
- (b) if satisfied that the worker falls within the terms of the relevant direction,

shall designate the worker as a key employee and afford him such benefits as are prescribed in subsection (5).

(7) Notwithstanding section 15, any decision of the Board under subsection (4) or (6) to deny the designation of an employee as a key employee shall be final and binding and no appeal shall lie from a decision of the Board.

(8) Where the Board has refused an application to designate an employee as a key employee, the employer may no sooner than three months thereafter re-apply in respect of the same employee to have him so designated.

Change of employer

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

- (a) the Board, including the Cayman Brac and Little Cayman Immigration Board, or the Chief Immigration Officer believes there are special circumstances; or
- (b) the circumstances of his employment are within a description or class of descriptions specified in a direction made by the Governor.

51. 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, and the Board in considering the application-

Prohibition against unauthorised promotion or re-designation

- (a) shall satisfy itself 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.

52. (1) Subject to subsections (4), (6), (7), (9) and (11), the term limit of a worker who is a key employee is nine years and the term limit of a worker who is not a key employee is seven years, in either case commencing with-

Term limits

- (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 a year or more, then the worker or his employer may apply for and be granted new work permits but his term limit shall remain the same as if his employment had not been interrupted, and, upon the expiration of his term limit, he shall be subject to the provisions of subsection (1).

(4) Where at the 1st January, 2004 a worker has worked in the Islands continuously for any of the periods referred to in this subsection or did subsequently complete such period after the 1st January, 2004 taking into account the last work permit granted to him prior to that date to the extent not cancelled or otherwise determined and any period of time he may have spent as an employee of the Government of the Islands, then he may, if application is made for the grant or renewal of further work permits for or by him, and at the discretion of the Board or the Chief Immigration Officer, be granted work permits for the

following additional periods to commence immediately upon the expiration or other determination of the work permit in force on the 1st January, 2004-

- (a) where the period was five years or more but less than six years, a period not exceeding three years;
- (b) where the period was six years or more but less than seven years, a period not exceeding two years;
- (c) where the period was seven years or more but less than eight years, a period not exceeding one year; or
- (d) where the period was eight years or more, a period expiring no later than the 31st December, 2006.

(5) For the purposes of determining the length of time a worker has worked continuously in the Islands under subsection (4), he shall be treated as having so worked notwithstanding any break in his employment or absence from the Islands for any reason prior to the 1st January, 2004 if such break or absence did not exceed six consecutive months at any one time in the period.

(6) Subject to subsection (9), where a worker either falls within subsection (4) or has been designated as a key employee and in either event has applied for permission to reside permanently in the Islands under section 30 prior to, or within ninety days of, the expiration of his final work permit he shall be entitled either-

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

(7) Subject to subsection (9), where a worker has been granted a fixed-term work permit and prior to such grant had been qualified to apply for permission to reside permanently in the Islands under section 30 but had either not done so or had applied subsequent to the expiration of his final work permit, then he may prior to the expiration of his fixed-term work permit apply for the said permission under section 30 and in either event he shall be entitled upon the expiration of his fixed-term work permit, to work-

- (a) on the same terms and conditions as applied to his fixed-term work permit; or
- (b) for any other employer but in the same occupation as stated in his fixed-term work permit,

save that time spent working thereon shall not be taken into account by the Board when considering his application under section 30.

(8) A person who intends to work by operation of law under subsection (6) or (7) or section 49(2) 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.

(9) A person who fails to comply with subsection (8) commits an offence.

(10) A person working by operation of law under subsection (6) or (7) 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, be entitled to one additional final non-renewable work permit with any employer not exceeding twelve months in duration 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 work permit 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.

(11) A person who, as an approved dependant, accompanies to the Islands a worker or an 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.

(12) 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 subsection (6) or (7),

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 his 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 subsection (6) or (7), 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-

- (i) other than in respect of a person to whom subparagraph (ii) applies, 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
- (ii) in the case of a person whose spouse's right to be granted work permits is subject to a term limit of seven years as provided for in subsection (1), for a period not exceeding nine years from the commencement of his term limit,

but the period of any work permit granted or renewed under this subsection shall not be taken into account by the Board in considering an application under section 30 for permission to reside permanently in the Islands.

(13) A person working under subsection (12) whose spouse is granted permanent residence under section 30 and who has applied for a Residency and Employment Rights Certificate as a dependant of his spouse 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.

(14) Where a work permit has been granted to a worker under subsection (11) and his spouse ceases to have the right to work and is required to leave the Islands under the provisions of this section, 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.

(15) The Board or the Chief Immigration Officer, in calculating under subsection (12)(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.

(16) Where a person appeals against the decision of the Board or the Chief Immigration Officer in respect of this section, the relevant Board or the Chief Immigration Officer having determined that by virtue of the expiration of his term limit, it had no power to grant or renew his work permit, any period that he spends in the Islands thereafter while awaiting the outcome of his appeal shall not be taken into account by the Caymanian Status and Permanent Residency Board in determining the length of time for which he is considered to have been legally and ordinarily resident in the Islands for the purposes of an application under section 30 for permission to reside permanently in the Islands save and except to the extent that his appeal is wholly or partially successful.

(17) The Chief Immigration Officer's decision in relation to the grant or refusal of the application for, or the revocation of, a fixed-term work permit is final and binding.

(18) Section 56(3) shall not apply to a grantee of a fixed-term work permit.

(19) No worker who has applied for a grant of permanent residence upon or prior to the expiration of a work permit granted pursuant to subsection (4) shall be entitled to apply for or obtain a fixed-term work permit.

(20) 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.

(21) For the avoidance of doubt, subsection (1) does not apply to a person-

- (a) who acquired permanent residence prior to the 21st December, 2006 and at such date had not obtained a Residency and Employment Rights Certificate; or
- (b) who before the 21st December, 2006, 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-
 - (i) legal counsel acting in any matter whether before a court in the Islands or otherwise;
 - (ii) visiting doctors or other specialists in the medical field;

- (iii) skilled specialist tradesmen;
- (iv) travelling salesmen; or
- (v) other persons in similar circumstances.

Temporary work permit 53. (1) The Chief Immigration Officer or his designate appointed under section 42 may on application in the prescribed form, accompanied by such documentary evidence as may be prescribed, by or on behalf of a person who desires to enter and remain in the Islands temporarily for the purposes of gainful occupation-

- (a) grant to such person a temporary work permit in the prescribed form upon payment of the prescribed fee;
- (b) vary or modify the terms of such permit upon payment of the prescribed fee;
- (c) refuse the application for the permit; or
- (d) revoke a temporary work permit so granted.

(2) A work permit granted under subsection (1) may be either-

- (a) a temporary work permit, for a continuous period of up to six months which may, if granted for a period of less than six months, be renewed so long as the total period of validity does not exceed six months;
- (b) a temporary work permit, for a seasonal worker for a continuous period of eight months and such permit cannot be extended or renewed, nor may a work permit be issued with respect to the same worker unless that person has left the Islands for at least three months immediately following the expiry of the temporary work permit for a seasonal worker.

(3) In order to determine whether an application under this section should be granted or refused or a temporary work permit revoked, the Chief Immigration Officer shall have regard to the criteria enumerated in sections 44(2)(a), (3) and (4) and 48(9), with the necessary modifications.

(4) Subject to subsection (5), no application for the grant of a temporary work permit in respect of a person who gained entry as a visitor shall be-

- (a) considered, unless the application was submitted after the visitor's departure from the Islands; or
- (b) approved, unless the visitor remained off the Islands during the processing of the application.

(5) Notwithstanding subsection (4), where, in his opinion, there exist extenuating circumstances, the Chief Immigration Officer acting in person may approve the application.

(6) It shall be the duty of the prospective employer or, where the application is in respect of a person who wishes to be self-employed, the applicant, to satisfy the Chief Immigration Officer that there has been compliance with paragraphs (a) and (b) of subsection (4).

(7) A prospective employer or an applicant who provides information to the Chief Immigration Officer in relation to subsection (6), which information he knows to be false or does not believe to be true, commits an offence.

(8) Where the application under subsection (1) is to engage in work as an entertainer, the Chief Immigration Officer or his designate, in addition to complying with subsection (3), shall, where appropriate, take into account-

- (a) the genuineness of the application;
- (b) the nature and content of the proposed performance;
- (c) the views of the Cayman National Cultural Foundation;
- (d) the views of the Cayman Islands Music Association; and
- (e) whether a local artist or act has been engaged to participate in the event.

(9) For the purposes of this section-

“entertainer” includes-

- (a) a person performing musical acts individually or as part of an orchestra;
- (b) a singer, disc jockey or comic; and
- (c) a circus or carnival performer.

54. (1) Any person duly carrying on business in or from within the Islands who regularly throughout each year employs persons not legally and ordinarily resident in the Islands on a temporary basis, may make a single application in each calendar year to the Chief Immigration Officer for the issue, in each calendar year, of one or more business visitors’ permits and for more than one visit.

Business visitors’ permit

(2) An application for business visitors’ permits shall be in respect of such number of persons and visits as the company, partnership or firm wishes to have granted and shall contain, in respect of each such person, such information as may be prescribed.

(3) An application shall state the maximum number of times it is desired that each business visitor be admitted to the Islands in such year, his occupation and the maximum duration of the stay of each such business visitor during each visit.

(4) No business visitors’ permit shall be issued for more than fourteen days on any one visit.

(5) The Chief Immigration Officer, in considering an application under this section, shall take into account such of the matters set out in section 44(2) to (4) as he considers relevant and, when granting business visitors' permits, may impose such conditions and limitations as he thinks fit.

(6) The annual fee, in respect of such business visitors' permits, shall be such as may be laid down by regulations and shall be determined by the number of persons in respect of whom application is made and the number of visits per person in the relevant calendar year.

Work permit fees

55. (1) An application for a work permit or a fixed-term work permit shall be accompanied by the work permit fee or the fixed term 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 or the fixed-term work permit fee to the applicant.

(2) Subsection (1) notwithstanding, 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 he 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.

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

56. (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.

(2) Where an offence is committed under this Law, any Immigration Officer at or above the rank of Deputy Chief Immigration Officer may, subject to

such conditions as he thinks fit, stay or compound any proceeding for that offence; and the said conditions may include, but are not limited to, 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 immigration officer at or above the rank of Deputy Chief Immigration Officer may impose a fine of up to five thousand dollars.

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

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

notwithstanding the fact that the original work permit has expired, it shall not be an offence for the worker to continue to be engaged in gainful occupation of the same kind and on the same terms and conditions of the original work permit while he awaits a notification of the determination of his application or his appeal, save that no worker shall be entitled to work under the provisions of this subsection beyond the date of his term limit unless he is a worker applying under the provisions of section 52(12).

(4) Where an application has been made to the Board, including the Cayman Brac or Little Cayman Immigration Board, or the Chief Immigration Officer 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 his 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 his 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 without a work permit in contravention of this Part or in contravention of 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 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 had made reasonable enquiries to determine whether he was in contravention of this Part, and had no reasonable ground for believing, and did not in fact believe that he 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 was not in contravention of this Part unless he-

- (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 the Immigration Department 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 immigration officer or constable.

(10) Where an immigration 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, he shall be released forthwith by an officer of the rank of Assistant Chief Immigration Officer or above.

(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 possession or under his 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 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 (8).

PART VI - Entry and Landing

57. (1) The Chief Immigration Officer, in his discretion, shall determine which arriving vessels are to be met by an immigration officer, and it is the duty of every person in or on every vessel so met to report to an immigration officer.

Discretion of Chief Immigration Officer and duty of persons arriving in the Islands

(2) Where an immigration officer boards the vessel before disembarkation the report referred to in subsection (1) shall be made to that immigration officer, but where no such immigration officer boards the vessel, the report shall be made upon disembarking.

58. (1) It is the duty of the local agent of every vessel arriving in the Islands to give adequate and timely notification of the arrival of the vessel to the Chief Immigration Officer or to any immigration officer designated by the Chief Immigration Officer in that behalf, and, if required, to furnish such particulars as he may then have in his possession regarding the passengers or crew on board such vessel.

Duty of local agent of vessel to give notice of arrival

(2) A person who fails to comply with subsection (1), or with any requirement duly given thereunder, commits an offence.

Inward passenger and crew manifests

59. (1) It is the duty of the master and the local agent of every vessel arriving in the Islands, prior to the arrival of such vessel or as soon as practicable thereafter, to deliver to an immigration officer lists showing separately-

- (a) the names and particulars of the passengers on board the vessel;
- (b) the names of the passengers whose intention it is to disembark at the Islands;
- (c) the names and particulars of the crew of the vessel; and
- (d) the names and particulars of any other persons on board the vessel.

(2) Where the master transports to the Islands passengers or crew-

- (a) who are required to have a valid entry visa or proof of citizenship, and are not in possession of such documents; or
- (b) in respect of whom he provides false information in relation to his duty under subsection (1),

he is liable to be fined by an Assistant Chief Immigration Officer or the Deputy Chief Immigration Officer, a sum not exceeding two thousand dollars.

(3) A person aggrieved by or dissatisfied with a decision under this section may appeal to the Chief Immigration Officer.

Control of landing from vessels

60. (1) It is an offence for the master of a vessel to cause or allow a passenger or member of the crew or other person on board the vessel to disembark in the Islands before permission generally to disembark has been given by an immigration officer.

(2) A person who fails to comply with subsection (1) commits an offence.

(3) It is a defence to a person charged with an offence under this section to prove that such disembarkation took place in an emergency and was, at the earliest time practicable, notified to an immigration officer.

Outward passenger and crew manifests

61. It is the duty of the master and local agent of every vessel leaving the Islands, unless excused from so doing by the Chief Immigration Officer, to deliver to an immigration officer, prior to the departure of such vessel, lists showing separately-

- (a) the names and particulars of the passengers on board the vessel;
- (b) the names and particulars of the crew on board the vessel; and
- (c) the names and particulars of any other persons on board the vessel.

(2) A person who fails to comply with subsection (1) is guilty of an offence.

62. Sections 58, 59, 60 and 61 shall not apply to any Government controlled vessel, but the master thereof shall furnish the Chief Immigration Officer with such particulars as he may require. Government vessels
63. Notwithstanding anything contained in this Part, the Governor may issue a permit for the landing of any person to the Islands, and such person shall be admitted accordingly upon such terms as may be specified in the said permit. Governor may issue entry permit
64. (1) Unless exempted by this Law, every person entering and leaving the Islands shall, if required to do so by an immigration officer, produce for inspection a relevant passport or some other valid document establishing the identity and nationality or place of permanent residence of such person to the satisfaction of the immigration officer, and, in such cases as may be prescribed, a relevant visa. Travel documents
- (2) An application for a visa shall be in writing and accompanied by the prescribed fee.
- (3) Subject to his complying with the prescribed criteria-
- (a) an immigration officer not below the rank of Assistant Chief Immigration Officer may-
 - (i) approve or refuse an application for a visa; and
 - (ii) refuse permission for a person in possession of a current visa to enter the Islands; and
 - (b) the Chief Immigration Officer acting in person may-
 - (i) revoke a current visa; or
 - (ii) waive the requirement for the production of a visa to land in the Islands.
- (4) A person who fails to comply with subsection (1) commits an offence.
65. (1) The crew and passengers in transit in any vessel who do not leave the vessel or who disembark onto and do not leave any place reserved for such crew and passengers in transit at any dock or airport, as the case may be, are deemed not to be persons landing in the Islands. Certain persons deemed not to have landed in the Islands
- (2) A person who is not, *bona fide*, a passenger in transit in a vessel or a member of the crew thereof shall be deemed to have landed in the Islands if he resides in a vessel, including a yacht or houseboat, within the territorial waters of the Islands.
66. Without prejudice to any of the succeeding provisions of this Law, it is an offence for any person other than a person-
- (a) who is Caymanian; or
- General prohibition from landing in the Islands without specific permission of immigration officer

- (b) who is not a prohibited immigrant and satisfies an immigration officer that he is-
 - (i) authorised to carry on a gainful occupation under section 48 or 53;
 - (ii) a person named in a work permit as a dependant of the licensee;
 - (iii) a person who is exempted under section 40 or a dependant of such a person; or
 - (iv) a person who has permission to reside or to remain permanently in the Islands under Part IV,

to land in the Islands, without, in each case, specific permission, with or without the imposition of conditions or limitations, being given by an immigration officer.

Entry by persons other than Caymanians or persons legally and ordinarily resident

67. (1) Persons other than those referred to in section 66, and who are not prohibited immigrants, may be granted permission to land in the Islands as visitors for a period of up to six months, subject to extension, from time to time, for further periods not exceeding six months on each occasion upon application made to the Chief Immigration Officer in the prescribed manner.

(2) In furtherance of section 20(1)(d) where documentary evidence is produced to the Chief Immigration Officer to establish that a child is the child of a Caymanian, the child shall be allowed to enter, remain and attend school in the Islands.

(3) Where the effect of such extension is that the person to whom permission is granted will be permitted to remain for a period in excess of twelve months in total, upon such permission being granted the Chief Immigration Officer shall forthwith notify the Caymanian Status and Permanent Residency Board of such extension.

(4) Any permission granted under subsection (1) or any extension thereof may, at any time, be revoked either by the Governor, or by the Chief Immigration Officer acting in person.

(5) Where a passenger is proven to have gained entry into the Islands by deception and is still physically within the confines of the immigration or customs precincts, his permission to enter may be revoked by an immigration officer of the rank of Assistant Chief Immigration Officer or above.

(6) The Governor or the Chief Immigration Officer, so revoking under subsection (4), shall cause to be served upon the person concerned notice of any such revocation in which shall be specified a time, not being more than fourteen days, within which such person shall be required to leave the Islands.

(7) In the case of any child born in the Islands in such circumstances that it does not acquire the right to be Caymanian at birth, such child shall be reported to the Chief Immigration Officer as soon as practicable and shall thereafter be subject to immigration control in a manner appropriate in all the circumstances and having regard to the immigration status of the parents or, in the case of a child born out of wedlock, of the mother.

(8) A dependant of a Caymanian may be granted permission to reside in the Islands for a period of up to three years, subject to extension, from time to time, for further periods not exceeding three years on each occasion upon application made to the Chief Immigration Officer in the prescribed manner.

(9) In considering an application under subsection (8), the Chief Immigration Officer shall satisfy himself-

- (a) that the applicant is a dependant of a Caymanian;
- (b) as to the character and health of the dependant;
- (c) as to the ability of the Caymanian adequately to support the dependant;
- (d) that the dependant is covered by health insurance; and
- (e) as to such other matters as he shall consider relevant.

(10) An application submitted under this section shall be accompanied by the prescribed administrative fee and the prescribed repatriation fee.

(11) Any permission granted under subsection (8) or any extension thereof may, at any time, be revoked by the Chief Immigration Officer acting in his discretion.

(12) In this section-

“dependant”, in relation to a Caymanian, means the Caymanian’s parent, grandparent, brother or sister being in each case, wholly or substantially dependent upon the Caymanian.

68. (1) Before granting permission to any person under section 67, an immigration officer may require such person to satisfy him that he is in possession of a paid up return ticket or ticket entitling such person and his dependants, if any, to travel to such person’s next destination outside the Islands, and is in possession of sufficient funds to maintain himself and his dependants, if any, during the period of his stay in the Islands.

Requirements to be satisfied by visitors

(2) An immigration officer, in accordance with general or special directions of the Governor or the Chief Immigration Officer, may attach such conditions or restrictions as he may think fit to any permission granted to any person under section 67, and the Governor, in respect of his own directions or

those of the Chief Immigration Officer, or the Chief Immigration Officer in respect of his own directions may, at any time, vary such conditions or restrictions in such manner as he thinks fit.

(3) Notwithstanding anything in subsection (1), an immigration officer may, as a condition of granting permission to a person under section 67, require him to pay such non-refundable repatriation fee as may be prescribed; and the Chief Immigration Officer, as a condition of granting a variation of any condition or restriction attached to any such permission, may require him to pay such non-refundable repatriation fee as may be prescribed.

(4) A person who fails to comply with any condition or restriction imposed by this section commits an offence.

Provisions relating to sponsors

69. (1) A sponsor of a tourist visitor seeking permission to land in the Islands or seeking an extension of the permission may, at the discretion of an immigration officer, be required to give an undertaking in writing to be responsible for that tourist visitor's maintenance and accommodation during the period of his stay in the Islands.

(2) Where a sponsor has given an undertaking under subsection (1) in respect of any tourist visitor, the sponsor shall, within twenty-four hours of the expiration of the grant of permission, inform the Chief Immigration Officer in the prescribed manner of any failure by that tourist visitor to depart from the Islands on or before the expiration of the permission granted or any extension thereof.

(3) A sponsor who acts in contravention of subsection (2) commits an offence.

Safeguards regarding permission to land, etc.

70. (1) Without prejudice to this Part, an immigration officer may examine any person who has arrived in the Islands, including any transit passenger, member of the crew of any vessel or other person not seeking to land in the Islands, for the purpose of determining-

- (a) whether he is, or is not, such a transit passenger, crew-member or other person;
- (b) if he is not a Caymanian, whether he may, or may not, enter the Islands under section 66; and
- (c) whether, if he is not, he should be given permission to land in the Islands and for what period and under what conditions, or should be refused permission.

(2) Where a person to whom subsection (1) refers, other than a person to whom section 66 applies, is seeking to land in the Islands, an immigration officer may require him to-

- (a) provide evidence of the good character of himself and his dependants;
- (b) undergo a medical examination or furnish a medical certificate in respect of himself and his dependants, if any, acceptable to the immigration officer and with such particulars as the immigration officer may consider necessary; and
- (c) furnish such other particulars as may, in the opinion of the immigration officer, be relevant to the application.

71. (1) Subject to subsection (4), a person who, disembarking in or leaving the Islands, fails to complete and hand to an immigration officer, immediately on arrival or departure, a disembarkation card or embarkation card, as the case may be, in the prescribed form commits an offence.

Disembarkation and
embarkation cards

(2) It is the duty of the Chief Immigration Officer to cause records to be kept and maintained of the entry of all persons into, and the departure of all persons from, the Islands.

(3) Without prejudice to anything contained in the Evidence Law (2011 Revision), any such record shall be received in evidence in any court or in any tribunal in the Islands as evidence, *prima facie*, of any entry or particular entered therein.

2011 Revision

(4) Subsection (1) does not apply to any person or category of persons specified in regulations as being exempt from the requirements of those regulations, and the duty of the Chief Immigration Officer under subsection (2) shall not apply in respect of any person or category of persons so exempted.

72. (1) Under the authority of an immigration officer-

- (a) a person who may be required to submit to examination under section 70(1), pending his examination and pending a decision to give or refuse him permission to land;
- (b) a person to whom permission to land has been refused; or
- (c) a prohibited immigrant on any vessel not intending or seeking permission to land,

Detention of persons
who have been refused
permission to land, etc.

may be temporarily detained at some place approved by the Governor for such purpose, and while so detained, shall be deemed to be in legal custody and not to have landed, and a person on board a vessel may, under the authority of an immigration officer, be removed for detention under this subsection.

(2) A person liable to detention or detained under subsection (1) may, with the leave of an immigration officer, be temporarily granted permission to land without being detained or, if detained under that subsection, may be released from

detention pending a decision whether to grant him permission under section 64, but this shall not prejudice a later exercise of the power to detain him.

(3) For so long as a person has been temporarily granted permission to land under subsection (2), he shall be deemed not to have landed and shall be subject to such conditions as an immigration officer may determine.

Duty of master with respect to removal of person landing unlawfully where permission to land is refused

73. (1) In any case where-

- (a) a person lands in the Islands in contravention of or without complying with this Law; or
- (b) a person is refused permission to land,

it is the duty of the master of the vessel in which such person arrived to receive him on board the same vessel and take him away from the Islands, or if the vessel has already left or is delayed, then it is the duty of the master of any subsequent vessel, owned or operated by the same company, departing from the Islands, to receive him on board that vessel and take him away from the Islands or, with the approval of the Chief Immigration Officer, make other suitable arrangements for his departure from the Islands.

(2) A master of a vessel who fails or refuses to receive any such person and take him away from the Islands as required by subsection (1) commits an offence.

(3) Any such person may be detained by an immigration officer or constable in such manner and place as may be directed by the Governor until such person can be received on board a vessel, and while so detained he shall be deemed to be in lawful custody and, in the case of a person refused permission to land, shall also be deemed not to have landed.

(4) The owner, operator, master and local agent of any vessel from which any such person landed as aforesaid shall be jointly and severally liable to the Governor for all charges incurred in respect of the maintenance of such person while remaining in the Islands or of his subsequent repatriation, removal or deportation from the Islands whether in the vessel from which the person was landed or by some other carrier.

(5) Subsections (1) to (4) apply not only to a person referred to in subsection (1) but to the dependants of such person as well.

Removal of certain persons unlawfully in the Islands

74. (1) A person who is not a Caymanian, a permanent resident, a work permit holder, nor the holder of a Residency and Employment Rights Certificate, a Residency Certificate for Persons of Independent Means or a student visa, may be removed from the Islands, in accordance with directions given under this section

by an immigration officer not below the rank of Assistant Chief Immigration Officer, if-

- (a) having been granted permission to enter or remain, the person does not observe a condition attached to the permission or remains beyond the time limited by the permission;
- (b) the person has obtained permission to enter or remain by deception; or
- (c) the person is a dependant of a person who is being or has been removed from the Islands under the provisions of this section.

(2) Directions may not be given under subsection (1)(a) if the person concerned has made an application for an extension of his permission to remain in the Islands in accordance with this Law.

(3) Where a person has overstayed his time in the Islands or is otherwise in the Islands illegally, the Chief Immigration Officer shall cause to be served upon the person concerned written notice in which shall be specified a time, not being more than fourteen days, within which he shall be removed from the Islands.

(4) If such a notice is sent by the Chief Immigration Officer by post, addressed to the last known address of the person concerned, it is to be taken to have been received by that person on the third day after the day on which it was posted.

(5) Directions for the removal of a person under subsection (1)(c) cease to have effect if he ceases to be a dependant of the other person.

(6) Directions for the removal of a person given under this section invalidate any permission to enter or remain in the Islands given to him before the directions are given or while they are in force.

(7) The Governor may apply any money or property of a person against whom an order under this section has been made in payment of the whole or any part of the expenses of or incidental to the journey from the Islands, and of the maintenance until departure of such person and his dependants, if any.

75. (1) Directions under section 74 for, or requiring arrangements to be made for, the removal of a person from the Islands may include or be amended to include provision for the person who is to be removed-

- (a) to be detained for a reasonable period prior to removal; and
- (b) to be accompanied by an escort consisting of one or more persons specified in the directions.

(2) The Governor may by regulations make further provision supplementing subsection (1).

Escorts for persons removed from the Islands under directions

- (3) The regulations may, in particular, include provision-
 - (a) requiring the person to whom the directions are given to provide for the return of the escort to the Islands;
 - (b) requiring the Government to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;
 - (c) as to the cases in which the Government is to bear those costs; and
 - (d) prescribing the kinds of expenditure which are to be included in calculating the costs incurred in connection with escorts.

Register to be kept and particulars furnished by hotel keepers and others

76. (1) It is the duty of the keeper of any premises to which this section applies to keep a register in the prescribed form and containing the prescribed particulars of all persons staying at the premises who are not Caymanian.

(2) The keeper of any such premises shall, where directions for the purpose are issued by the Governor, make to the Chief Immigration Officer such returns concerning the persons staying at the premises, at such times and in such form as may be specified in such directions.

- (3) It is the duty-
 - (a) of every person, whether Caymanian or not, staying at any premises to sign, when so required, a statement as to his nationality, and, if non-Caymanian to furnish and sign a statement of the particulars required under this section; and
 - (b) of the keeper of any such premises to require any person who stays at the premises to sign the statement and furnish the particulars required from him under this section and to preserve such statements including any statements supplied under this section to any previous keeper of the premises for a period of two years from the date when the statements were signed.

(4) Every register kept, and all particulars furnished, under this section shall, at all reasonable hours, be open for inspection by any constable, immigration officer or person authorised by the Governor.

(5) This section applies to any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward.

- (6) The breach of a duty imposed by this section is an offence.

Re-entry permit

77. (1) A person who is, for the time being, entitled by this Law, or permitted by reason of the exercise of any power thereunder to land in the Islands may apply to the Chief Immigration Officer for the issue of a re-entry permit.

(2) The Chief Immigration Officer shall, in respect of a person entitled under subsection (1), issue a re-entry permit in the prescribed form and on payment of the prescribed fees, valid for such periods as the applicant is, at the time of issue, entitled to land in the Islands.

(3) Nothing in subsections (1) and (2) shall have effect so as to authorise any person to land in the Islands notwithstanding his possession of a valid re-entry permit, if he has, since the issue of the permit, become a person who may be refused permission to land in the Islands.

78. (1) A person who-

- (a) lands or attempts to land in the Islands;
- (b) does any act preparatory to landing in the Islands; or
- (c) remains or resides in the Islands,

Offences relating to
illegal landing and
powers of arrest

where such landing, preparing, remaining or residing is or would be in contravention of this Law, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for five years.

(2) A person who-

- (a) knowingly assists or causes another to land in, or to depart from, the Islands;
- (b) connives in such landing or departure; or
- (c) wilfully does an act preparatory to paragraph (a) or (b),

whether or not that other person knew that there was a contravention of this Law, in circumstances where such landing or departure is, or would be, in contravention of this Law, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

(3) The court before which a person is convicted of an offence under subsection (2) may order the forfeiture of a vehicle or vessel used or intended to be used in connection with the offence if the convicted person-

- (a) owned the vehicle or vessel at the time the offence was committed;
- (b) was at that time a director, secretary, manager or other responsible officer of a company which owned the vehicle or vessel;
- (c) was at that time in possession of the vehicle or vessel under a hire-purchase agreement;
- (d) was at that time a director, secretary, manager or other responsible officer of a company which was in possession of the vehicle or vessel under a hire-purchase agreement;

- (e) was at that time a charterer of the vessel; or
- (f) committed the offence while acting as master of a vessel.

(4) An immigration officer or constable may arrest without warrant any person who has committed or whom he reasonably suspects to have committed an offence under this Law.

(5) The Chief Immigration Officer may, if he intends to recommend the deportation of a person convicted of a criminal offence, detain him in such place and for such period, not exceeding seven days as he may direct, save that a person to whom the Board has granted permanent residence shall not, while he continues to enjoy the benefit of the grant, be subject to a deportation order.

(6) Where a person who claims to have an interest in a vehicle or vessel applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle or vessel unless the person has been given an opportunity to show cause why the order should not be made.

Register of non-Caymanians

79. There shall be provided and maintained by the Chief Immigration Officer, under the direction of the Governor, a central register of persons who are not Caymanian, in which there shall be registered such particulars and in such form as may be prescribed.

Application of other laws

80. Nothing contained in this Part shall affect the duty of a person to comply with the laws affecting customs, quarantine, public health and statistics, or with an order of the Governor, a court of law or a constable in the execution of his duty.

Establishment of stop list

81. (1) There shall be established by the Chief Immigration Officer a stop list in which shall be recorded the name of any person known to come within a category of section 82.

(2) The Chief Immigration Officer may cause copies of the stop list or notification of the entry in or removal there from of any name to be given to the local agent of vessels arriving in the Islands and to travel agencies.

Prohibited immigrants

82. The following persons, not being Caymanian or permanent residents, are prohibited immigrants-

1997 Revision

- (a) a destitute person;
- (b) a person who is mentally disordered or mentally defective as defined in the Mental Health Law (1997 Revision), or suffers from epilepsy, not controlled by medication, unless in any such case he, a person accompanying him or some other person gives security to the satisfaction of the Chief Immigration Officer for

his permanent support in the Islands or for his removal therefrom whenever required by the Chief Immigration Officer;

- (c) a person certified by a Health Officer to be suffering from a communicable disease that makes his entry into the Islands dangerous to the community;
- (d) a person who is reasonably believed to be a prostitute, to have come to the Islands for the purpose of prostitution or to be living on or receiving or to have lived on or received the proceeds of prostitution;
- (e) a person who has previously been deported, removed or repatriated from the Islands;
- (f) a member of a class of persons deemed by the Governor on economic grounds or on account of standard or habit of life to be undesirable immigrants and so declared by Order published in the Gazette;
- (g) a person who, from information or advice which, in the opinion of the Governor, is reliable information or advice, is deemed by the Governor to be an undesirable inhabitant of or visitor to the Islands; or
- (h) a person who, not having received a free pardon, has been convicted in any country of an offence for which a sentence of imprisonment of or exceeding twelve months has been passed otherwise than for non-payment of a fine.

83. (1) Subject to section 67(2), no student may attend an educational institution in the Islands unless he is a student to whom a student visa has been issued.

Student visas

(2) Leave to land may be granted for the duration of the student's course, but leave to remain shall not be granted for a period in excess of four years.

(3) A student may apply to the Chief Immigration Officer for a student visa on the prescribed form accompanied by the prescribed fee and any required documentary evidence.

(4) The Chief Immigration Officer in considering an application under this section shall, subject to any general directions that the Governor may, from time to time, give in respect of the consideration of such application, take particularly into account the following matters-

- (a) the character, reputation and health of the applicant and his dependants, if any;
- (b) whether he intends to leave the Island at the end of his studies;

- (c) the sufficiency of his financial resources and his ability adequately to maintain his dependants without recourse to public funds;
 - (d) the quality of the living accommodation available to him and his dependants, if any;
 - (e) his facility in the use of the English language;
 - (f) whether he intends to engage in business or take up employment, other than unpaid student work undertaken in connection with the intended course of study; and
 - (g) whether, from information available to the Chief Immigration Officer regarding the applicant's conduct and associations, the refusal of the application would be conducive to the public good.
- (5) The Chief Immigration Officer-
- (a) may grant, refuse, or defer the application either unconditionally or subject to such conditions as he may think fit; and
 - (b) where the application is granted, may extend, revoke, vary or modify the student visa.
- (6) The holder of a four-year student visa may apply to the Chief Immigration Officer in the prescribed manner for an extension of stay as a student, which extension, if granted, shall be limited to twelve months.
- (7) An applicant under subsection (6) shall satisfy the Chief Immigration Officer that-
- (a) he was admitted to the Cayman Islands as a student;
 - (b) he has continued to meet the requirements of such admission;
 - (c) he has been regular in attendance during the course that he has already begun and any other course for which he was enrolled in the past; and
 - (d) he has made satisfactory progress in his course of study and has been successful in his examinations.
- (8) Every educational institution shall-
- (a) make available to the Chief Immigration Officer, upon request, information concerning the non-Caymanians enrolled at that institution; and
 - (b) await receipt of a copy of the student visa from the Chief Immigration Officer before enrolling the student at the institution.
- (9) The holder of a student visa may not engage in gainful occupation in the Islands other than unpaid student work undertaken in connection with his course of study.

(10) Notwithstanding anything contained in this section, a child entering the Islands for the express purpose of adoption proceedings shall, with the express permission of the Chief Immigration Officer, be allowed to remain and attend school in the Islands.

PART VII - Asylum

84. (1) A person who is in legal custody under section 72(1) or a person to whom permission to remain in the Islands has been granted under section 67(1) or 72(2) may apply to the Chief Immigration Officer for asylum, and in considering such application the Chief Immigration Officer shall have regard to the Refugee Convention and any directions given by the Governor relating to asylum applications. Application for asylum

- (2) For the purposes of this Part, a person is eligible to apply for asylum if-
- (a) he is at least eighteen years of age or is an unaccompanied minor;
 - (b) he is in the Islands; and
 - (c) the application for asylum has been made by him at a place designated by the Governor.

(3) A person specified under subsection (4) may also apply for asylum for his dependant children under eighteen years of age that are with him in the Islands.

(4) A person whose application under subsection (1) has been successful shall be granted leave to remain indefinitely in the Islands and the right to work for any employer in any occupation.

(5) The Chief Immigration Officer may revoke a person's indefinite leave granted under this section if someone of whom he is a dependant ceases to be a refugee as a result of-

- (a) voluntarily availing himself of the protection of his country of nationality;
- (b) voluntarily acquiring a lost nationality;
- (c) acquiring the nationality of a country other than the Cayman Islands and availing himself of its protection; or
- (d) voluntarily establishing himself in a country in respect of which he was a refugee.

(6) Notwithstanding section 14, a person whose application for asylum has been refused may appeal to the Immigration Appeals Tribunal, within fourteen days of his being notified of the decision, against the refusal on the grounds that requiring him to leave the Islands would be contrary to the Refugee Convention.

(7) Neither an applicant for asylum nor an appellant against the decision of the Chief Immigration Officer shall be required to leave the Islands pending the outcome of his application or appeal; and, for the purposes of this section, an application or appeal is pending-

- (a) beginning on the date when it is submitted or instituted; and
- (b) ending on the date when the applicant or appellant -
 - (i) is formally notified of the outcome of the application or appeal; or
 - (ii) withdraws or abandons the application or appeal.

(8) Where an application is made for asylum, it shall be recorded by the Chief Immigration Officer who, if satisfied that the application was made as soon as reasonably practicable after the applicant's arrival in the Islands, shall-

- (a) on being satisfied that for obvious and compelling reasons the applicant cannot be returned to his country of origin or nationality, grant him exceptional leave to remain in the Islands; and
- (b) make arrangements for his support, accommodation and upkeep.

(9) The grant of exceptional leave under this section -

- (a) does not confer on the grantee any right to gainful occupation in the Islands; and
- (b) may be revoked, varied or modified by the Chief Immigration Officer.

(10) Where an applicant under this Part is to be deported to a country of which he is a national or citizen and-

- (a) he does not possess a passport or other travel document; and
- (b) the country to which he is to be deported requires the Chief Immigration Officer to provide identification data in respect of the applicant as a condition of the admission of the applicant to that country,

the Chief Immigration Officer shall provide the requested data but shall not disclose whether the applicant had sought asylum.

(11) The Governor's deportation order in respect of a person who has been refused asylum may require the master of a vessel-

- (a) to remove the person from the Islands; and
- (b) to bear the cost of such removal, including the cost of providing escorts to and from the receiving country.

(12) Where a person who has applied for or intends to apply for asylum is desirous of voluntarily leaving the Islands for a country in which he hopes to take up residence, the Chief Immigration Officer may render to him-

- (a) advice and other help in relation to his proposed journey; and
- (b) financial assistance to defray the cost of his travel and upkeep.

(13) For the purposes of this Part, the Governor may give directions to the Chief Immigration Officer in relation to the consideration of applications for asylum and promulgate rules for the hearing of appeals under subsection (6), and such directions and rules shall be published in the Gazette.

85. Section 84 does not entitle a person to appeal against a refusal of an application if-

Limitations on rights of appeal under section 84

- (a) the Governor has certified that the appellant's departure and exclusion from the Islands would be in the interest of national security; or
- (b) the reason for the refusal was that he was a person to whom the Refugee Convention did not apply by reason of Article 1(F) of that Convention,

and the Governor has certified that the disclosure of material on which the refusal was based is not in the interest of national security.

86. (1) A person who-

Helping asylum-seeker to enter the Islands

- (a) knowingly and for gain, facilitates the arrival in the Islands of an individual; and
- (b) knows or has reasonable cause to believe that the individual intends to apply for asylum under section 84(1),

commits an offence.

(2) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which-

- (a) aims to assist individuals seeking asylum pursuant to the Refugee Convention; and
- (b) does not charge for its services.

PART VIII - Deportation

87. Nothing in this Part shall apply or have effect so as to authorise or empower the making of a deportation order in respect of a Caymanian or a person who is entitled to remain permanently in the Islands.

Non-application of this Part with respect to Caymanians

88. (1) No deportation order shall be made under this Law, otherwise than in the case of-

Report preliminary to deportation order

- (a) a convicted and deportable person;

- (b) a person who has been convicted of an offence contrary to section 56 or 78(1)(c); or
- (c) a person who has been sentenced in the Islands to imprisonment for not less than six months,

unless a magistrate shall have reported on the case and the Governor, having had regard to the findings of fact and conclusions of law and any recommendation contained in such report, is satisfied that such order may properly be made.

(2) Where it is intended to take proceedings against any person for the purpose of obtaining a report under subsection (1), a notice shall be served upon such person giving him reasonable information as to the nature of the facts alleged against him and the grounds upon which it is alleged that a deportation order should be made, requiring him to show cause why such order should not be made and naming the time and place for his appearance before a summary court in that behalf, and if such person should fail to appear at the time and place so named, the court may issue a warrant for his arrest.

(3) In every proceeding under subsection (2), the court shall take such evidence on oath of the parties (who may be represented by counsel) and their witnesses as may be tendered in chief and upon cross-examination and re-examination and, after considering the evidence adduced before it and making any further investigations which it may consider to be desirable, shall report to the Governor setting out its findings of fact, conclusions of law, if any, and making such recommendation as he thinks fit.

(4) During the proceedings and pending the decision of the Governor, the court, at its discretion, may order the person, the subject of the report, to be detained in legal custody or released on bail.

Power of Governor to make, revoke, vary or modify a deportation order and duty to report to Secretary of State

89. (1) Subject to sections 87 and 88, the Governor may, if he thinks fit, make a deportation order in respect of any person who is-

- (a) a convicted and deportable person;
- (b) a destitute person;
- (c) a prohibited immigrant who has entered the Islands contrary to this or any earlier law;
- (d) a person whose permission to land and to remain or reside in the Islands or any extension thereof has expired or has been revoked and who fails to leave the Islands; or
- (e) a person whose application for asylum has been refused under section 84.

(2) Where the Governor considers that a person is an undesirable person, or that his presence in the Islands is not conducive to the public good, he may make a deportation order in respect of such person.

(3) The Governor-

- (a) may, at any time, revoke a deportation order and may vary or modify its terms so as to permit the person in respect of whom it is made, to enter and land in the Islands for such purpose and subject to such conditions as may be specified; and
- (b) shall report any deportation order made, varied or modified by him, to the Secretary of State for Foreign and Commonwealth Affairs.

90. A deportation order shall be in such form as the Governor may approve.

Form of deportation order

91. (1) A deportation order shall be served upon the person to whom it is directed, by any immigration officer or constable.

Service of deportation order and power to detain deportees

(2) A person in respect of whom a deportation order is made or a certificate is given by a court with a view to the making of a deportation order may be detained in such manner and in such place as may be directed by the Governor and may be placed on board a vessel about to leave the Islands, and shall be deemed to be in lawful custody while so detained and until the vessel finally leaves the Islands.

(3) Notwithstanding subsection (2), a person who has been convicted of an offence and against whom a deportation order may be made may, whether before or after the making of such order, be allowed to leave the Islands voluntarily, with the permission of the Chief Immigration Officer and under the supervision of an immigration officer or constable, and that person shall be deemed to be in legal custody while he is under such supervision.

92. (1) Subject to section 91(3), a person in respect of whom a deportation order is made shall leave the Islands in accordance with the terms of the order, and shall thereafter, so long as the order is in force, remain out of the Islands.

Duty to comply with deportation order

(2) A person who contravenes subsection (1) commits an offence.

(3) A person who returns to the Islands in contravention of a deportation order commits an offence and may again be deported under the original order, and section 91(2) shall apply accordingly in respect of such person.

93. (1) The master of a vessel about to call at any place outside these Islands shall, if so required by the Governor or by an immigration officer, receive a person against whom a deportation order has been made and his dependants, if any, on board the vessel, and shall afford him and them a passage to that place and proper accommodation and maintenance during the journey.

Duty to afford transportation of deportee to a place outside the Islands

(2) A person who contravenes subsection (1) commits an offence.

(3) The Governor may apply any money or property of a person against whom a deportation order has been made in payment of the whole or any part of the expenses of or incidental to the journey from the Islands and of the maintenance, until departure, of such person and his dependants, if any.

(4) Except so far as they are defrayed under subsection (3), any such expenses shall be payable out of public funds.

Harbouring deportee

94. A person who, without lawful excuse, knowingly harbours or conceals any person who is in the Islands in contravention of a deportation order commits an offence.

Arrest of person
contravening, etc., this
Part

95. A person who acts in contravention of this Part or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by an immigration officer or constable.

Evidence in proceedings
taken under this Part

96. In any proceedings taken under, or in connection with, this Part-

- (a) the burden of proof that a person charged is exempted from the application of this Part by virtue of section 87 shall be upon such person;
- (b) any document purporting to be a deportation order shall, until the contrary is proved, be presumed to be such an order; and
- (c) any deportation order shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made.

Proceedings to be
sanctioned by Attorney
General

97. No proceedings shall be instituted under this Part except by the Attorney General or with his previous sanction in writing.

PART IX - General

Identification cards

98. (1) A person to whom a work permit has been issued under section 48 shall, at the time of the granting of such work permit or permission to engage in a gainful occupation, as the case may be, have issued to him an identification card.

(2) A person to whom an identification card has been issued under subsection (1) shall produce such card for inspection upon demand being made in such regard by any police constable, immigration officer 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, he shall produce the same for inspection within forty-eight hours at such place as the person lawfully making the demand shall specify.

2011 Revision

(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.

99. (1) The Governor 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. Regulations

- (2) Regulations made under this section may, in particular-
- (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) 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;
 - (f) prescribe the countries a national of which on landing in the Islands shall produce a visa;
 - (g) prescribe the persons or categories of persons who are exempt from the requirements of section 71(1); and
 - (h) 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.

100. The Governor may, from time to time, issue policy directions to the Boards, the Immigration Appeals Tribunal and the Chief Immigration Officer 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, the Immigration Appeals Tribunal and the Chief Immigration Officer to put into effect and to carry out such directions.

Directions to Board and
Chief Immigration
Officer

- Power to put questions and require production of documents
101. (1) The Boards, the Immigration Appeals Tribunal or any immigration officer, constable or other person lawfully acting in the execution of this Law may-
- (a) put any question to any person, being a question reasonably required in connection with the proper discharge of their, its or his 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 may have in his possession or under his 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 him) to answer fully and truthfully to the best of his knowledge and belief any such question, or to produce for inspection any such document, is, without prejudice to section 104, guilty of 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
102. (1) A person who resists arrest or otherwise wilfully obstructs or impedes any immigration officer, constable or other person acting in the execution of his 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 an immigration officer or constable.
- Authorisation to carry arms
103. An immigration officer, with the authority of the Chief Immigration Officer given under and in accordance with the general or special directions of the Governor, is entitled in the performance of his duties to carry arms.
- Offences relating to false documents, etc.
104. (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 knows to be false or which he does not believe to be true;
 - (b) without lawful excuse (the proof of which shall be upon him) 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) 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) 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 an immigration officer or constable.

105. A person who, without reasonable excuse, has in his possession an immigration stamp or a replica immigration stamp commits an offence.

Possession of immigration stamp

106. (1) A person who-

- (a) does an act which facilitates a breach of a deportation order, exclusion order or removal order in force against an individual; and
- (b) knows or has reasonable cause for believing that the act facilitates a breach of the deportation, exclusion or removal order,

Assisting entry in breach of deportation, exclusion or removal order

commits an offence.

(2) Subsection (1) applies to anything done-

- (a) in the Islands; or
- (b) outside the Islands by a body incorporated under the law of the Islands.

(3) A person who commits an offence under this section is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years, and the court before which the person is convicted may order the forfeiture of a vehicle or vessel used or intended to be used in connection with the offence if the convicted person-

- (a) owned the vehicle or vessel at the time the offence was committed;
- (b) was at that time a director, secretary, manager or other responsible officer of a company which owned the vehicle or vessel;
- (c) was at that time in possession of the vehicle or vessel under a hire-purchase agreement;

- (d) was at that time a director, secretary, manager or other responsible officer of a company which was in possession of the vehicle or vessel under a hire-purchase agreement;
- (e) was at that time a charterer of the vessel; or
- (f) committed the offence while acting as master of a vessel.

(4) Where a person who claims to have an interest in a vehicle or vessel applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle or vessel unless the person has been given an opportunity to show cause why the order should not be made.

(5) Where proceedings are instituted against a person for an offence under this section and either-

- (a) the proceedings do not result in his conviction; or
- (b) where he is convicted of the offence-
 - (i) the conviction concerned is quashed without a conviction for any other offence under this Law being substituted; or
 - (ii) the Governor has granted a pardon in respect of the conviction,

the Grand Court may, on an application by a person who held property which was realisable property, order compensation to be paid by the Government to the applicant.

(6) The Grand Court shall not order compensation to be paid in any case unless the Court is satisfied-

- (a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence concerned and that, but for that default, the proceedings would not have been instituted or continued; and
- (b) that the applicant has suffered substantial loss in consequence of anything done in relation to the property by or in pursuance of an order of the Grand Court.

(7) The amount of compensation to be paid under this section shall be such as the Grand Court thinks just in all the circumstances of the case.

(8) In this section-

“realisable property” means any property held by-

- (a) a person against whom proceedings have been instituted for an offence under this section; and
- (b) another person to whom that person has directly or indirectly made a gift caught by this section,

save that such property is not realisable property if a forfeiture order made by the Court in respect of that property is in force.

(9) A gift is caught by this section if-

- (a) it was made by a person against whom proceedings have been instituted under this section at any time since the beginning of the period of six years ending when the proceedings were instituted; or
- (b) it was made by him at any time and was a gift of property-
 - (i) received by him in connection with illegal activity carried on by him or another; or
 - (ii) which in whole or in part directly or indirectly represented in his hands property received by him in that connection.

(10) For the purposes of subsection (9), the circumstances in which a person against whom proceedings have been instituted for the offence is to be treated as making a gift include where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by him.

107. (1) No person may provide or purport to provide immigration advice or immigration services for any fee, gain or reward unless he is a qualified person. Provision of immigration services

(2) A person is a qualified person if-

- (a) he is registered with the Chief Immigration Officer or is employed by, or works under the supervision of, such a person;
- (b) he is a member or employee of a body which is licensed, or exempted by the Trade and Business Licensing Law (2007 Revision), or works under the supervision of such a member or employee; or 2007 Revision
- (c) he is a person admitted to practise as an attorney-at-law under the Legal Practitioners Law (2010 Revision). 2010 Revision

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

- (a) is certified by the Chief Immigration Officer 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 Governor 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 Chief Immigration Officer.

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

Registration and exemption by the Chief Immigration Officer

108. (1) The Chief Immigration Officer shall prepare and maintain a register for the purposes of section 107(2)(a) and (b).

(2) The Chief Immigration Officer shall keep a record of the persons to whom he has issued a certificate of exemption under section 107(3)(a).

Human smuggling

109. (1) A person who, in contravention of this Law and whether for financial or material benefit or not, assists or facilitates the transportation, harbouring or movement into or out of the Islands, of an individual commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

(2) Subsection (1) applies to anything done-

- (a) in the Islands; or
- (b) outside the Islands by a body incorporated under the law of the Islands.

Punishment for offences for which no penalty is provided

110. (1) A person who commits an offence for which no penalty is provided is liable on summary conviction, in respect of a first offence, to a fine of five thousand dollars and to imprisonment for one year or, 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.

(2) If a marriage officer has reasonable grounds for suspecting that a marriage will be a marriage of convenience, and fails to report his suspicion to the Chief Immigration Officer without delay and in such form and manner as may be prescribed, he 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.

111. 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.

Offence to enter into marriage of convenience

112. 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 he proves that the offence was committed without his knowledge or that he exercised all reasonable diligence, having regard to his office, to prevent the commission of the offence.

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

113. (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 any such order or direction as aforesaid; 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.

114. (1) A work permit or a temporary work permit, granted under an earlier law and in force immediately prior to the 21st December, 2006, shall continue in force for the remainder of its term as if it were a work permit or temporary work permit, as the case may be, granted under the Law as contained in this Revision, and such permit shall continue to be subject to each and every one of the terms and conditions attaching to such licence as if those terms had been imposed under the Law as contained in this Revision.

Transitional provisions

(2) Every work permit, deportation order, warrant, administrative order or other document that was issued, made or granted under the Immigration laws before the 21st December, 2006 and that was valid immediately prior to such date shall have effect as if issued, made or granted under the Law as contained in this Revision.

(3) A person who immediately before the 21st December, 2006 held the position of immigration officer, shall continue to hold such position under and for the purposes of this Law on the same terms and conditions.

(4) Nothing in this Law shall adversely affect the rights of any person where those rights-

- (a) were acquired under the Immigration Law ^{2006 Revision} (2006 Revision) or any earlier law; and
- (b) existed immediately prior to the 21st December, 2006.

(5) Where prior to the 1st January, 2004 applications were made for the grant of Caymanian status and such applications are still pending, the Caymanian Status and Permanent Residency Board shall deal with all such applications in accordance with the repealed Immigration Law (2003 Revision), the repealed Immigration Directions (2001 Revision) and any quotas fixed by the Government pursuant thereto.

(6) Where, prior to the 1st January, 2004, application was made for a grant of a work permit or of permanent residence and the application is still pending, the Board shall deal with such application in accordance with the repealed Immigration Law (2003 Revision) and the repealed Immigration Directions (2001 Revision).

2003 Revision
2001 Revision

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

115. In performing their functions and exercising their powers generally under this Law, sections 101 and 102 with all necessary amendments shall be construed as applying also to the Cayman Brac and Little Cayman Immigration Board.

Conflict with other laws

116. 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, as the case may be, shall prevail.

Savings of other laws

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

1997 Revisions

- (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.

118. Until regulations are made under section 99, the regulations made under the repealed Immigration Law (2003 Revision) shall continue in force as if made under this Law.

Saving
2003 Revision

119. All acts and things done or purported to be done or omitted to be done by the Board or the Chief Immigration Officer between 1st April, 2007 and the 24th November, 2008, under or in pursuance of the powers conferred by section 43 of the Immigration (Amendment) (No.2) Law, 2006, shall not be invalid by reason only that the provisions of subsection (5) were not complied with, and no legal proceedings or other action whether pending or not shall be entertained in respect of or in consequence of such acts and things.

Validation of certain
acts and things
Law 35 of 2006

SCHEDULE

IMMIGRATION LAW

section 26

(2011 Revision)

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..... .

Chairman of the Caymanian Status and Permanent Residency Board /Governor.

(1) A copy of the certificate shall be sent by the Secretary to the Chief Statistician and to the Chief Immigration Officer and the name of the grantee shall be published in the Gazette. The Secretary shall also retain a copy in the grantee's record.

(2) Until the certificate is forfeited or revoked under this Law, the certificate shall be prima facie evidence that the grantee is a Caymanian.

(3) In the event of the grantee's certificate becoming lost or destroyed, it shall be lawful for the Secretary to issue a duplicate thereof on payment by the grantee of the prescribed fee.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 1st day of November, 2011.

Kim Bullings
Clerk of Cabinet

(Price \$ 19.20)