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IMMIGRATION LAW

(2006 Revision)

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IMMIGRATION LAW

(2006 Revision)

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IMMIGRATION LAW

(2006 Revision)

PART 1 – Introductory

1. This Law may be cited as the Immigration Law (2006 Revision). Short title
2. In this Law - Definitions
 - “Administrator” means the Immigration Boards’ Administrator holding office under section 7(1);
 - “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, and the appropriate authority in the case of an application for a work permit-
 - (a) for an attorney at law, is the Attorney-General; and
 - (b) for a health practitioner, is the chairman of the Health Practitioners Board;
 - “arms” means firearms as defined in the Firearms Law (2006 Revision), and 2006 Revision includes batons and handcuffs;
 - “automatic acquisition”, in relation to the right to be Caymanian, means status acquired automatically by a person by virtue only of his being-
 - (a) the child of a Caymanian;
 - (b) under the age of eighteen years; and
 - (c) legally and ordinarily resident in the Islands;
 - “Board” means one of the three Boards established under section 4;
 - “Business Staffing Plan” means the Plan referred to in section 43;
 - “Business Staffing Plan Board” means the Business Staffing Plan Board established under section 4(4);
 - “business visitor” means a person who has been issued with a business visitor’s permit granted under section 52;
 - “Cayman Brac and Little Cayman Immigration Board” means the Immigration Board appointed under section 5;

“Caymanian” means a person who possesses Caymanian status under the repealed Immigration Law (2003 Revision) or any earlier law providing for the same or similar rights, and includes a person who acquired that status under Part III;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 by descent” means a person who was born outside the Islands to a parent who was Caymanian but was not settled in the Islands at the time of the birth;

“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 legitimate;

“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, 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 or 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;

“disembark” includes alight from;

2004 Revision

“electoral district” bears the meaning ascribed to that expression in section 2 of the Elections Law (2004 Revision);

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

“exempted 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 47(3);

“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 avocation, for gain or reward, in, or in relation to, the Islands;

“Governor” means the Governor in Cabinet;

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

“health practitioner” and “Health Practitioners Board” have the meanings ascribed to those expressions in the Health Practitioners Law (1995 Revision);

“Immigration Appeals Tribunal” means the Immigration Appeals Tribunal established under section 11;

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

“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

“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 the voluntarily, physical presence in the Islands for a period of time without legal impediment of a person (other than a tourist visitor or transit passenger) during which period he regards the Islands as his normal place of abode for the time being, save that absences abroad for purposes of education, health or business during such period shall count as residence in the Islands;

“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;

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

“offence” for the purposes of a grant or the revocation of a grant by the Board under Parts III, IV or V means an offence against this or any other law of the Islands in respect of which-

- (a) a term of imprisonment in excess of twelve months could be imposed otherwise than in default of payment of a fine; or
- (b) lesser terms of imprisonment total in excess of twelve months in the aggregate as a result of multiple convictions, and 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 may 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 77;

“Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 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;

“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;

“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;

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

“stop list” has the meaning ascribed to it in section 76;

“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;

“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 to whom a work permit is granted by the Work Permit Board under Part V;

“work permit” means a work permit granted under section 46, and, subject to section 54, includes a temporary work permit granted under section 51; 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-

- (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 Administrator or his designate;
- (g) the Director of Employment Services 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-

- (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 Administrator 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-

- (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 or his deputy or other designate;
- (f) the Chief Education Officer or his designate;
- (g) the Chief Immigration Officer or his designate;
- (h) the Administrator 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.

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

Cayman Brac and Little
Cayman Immigration
Board

- (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 grant of work permits to persons who are non-Caymanians and 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.

Appointment and
functions of
committees

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-

- (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 Authorities;
- (e) adjudicate appeals from the decisions of immigration officers; or
- (f) designate a worker as an exempted employee.

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

7. (1) There shall be an Immigration Boards Administrator who shall be a public officer and to whom each Secretary shall report.

Appointment of
Immigration Boards
Administrator and
functions of the Boards

(2) The duties of the Administrator shall include-

- (a) the planning and scheduling of Board meetings;
- (b) the co-ordination of-
 - (i) the work of and the applications made to the Boards;
 - (ii) the activities of the Chairmen and other members of the Boards in relation to the work of the Boards; and
 - (iii) meetings with the public, at his sole discretion in relation to immigration matters; and
- (c) 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) the processing, determining and granting of applications for work permits other than for an employer with a Business Staffing Plan authority; 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 permanently reside 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 for-
 - (i) processing and determining Business Staffing Plans;
 - (ii) issuing Business Staffing Plan Authorities; and
 - (iii) processing and determining applications for the grant or renewal of work permits applied for by any employer who possesses a Business Staffing Plan Authority.

(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.

Duty of confidentiality

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.

(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 is 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 consists of the following members-

Immigration Appeals
Tribunal

- (a) a Chairman;
- (b) a deputy Chairman; and
- (c) six other members,

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

(2) The Chairman and the deputy Chairman shall both be attorneys-at-law of at least seven and five years call to the bar, respectively.

(3) The Governor may appoint a Secretary to the Immigration Appeals Tribunal who shall record and keep all minutes of the meetings, proceedings and decisions of the Immigration Appeals Tribunal, and such Secretary shall have no right to vote.

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.

Meetings of Immigration
Appeals Tribunal

(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.

Application of sections 9 and 10 to the Immigration Appeals Tribunal

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.

Appeals from decisions of immigration officer

14. (1) Subject to subsection (2), 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 there from to the Work Permit 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 would have been received in the ordinary course of post.

(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; and
- (e) to refuse an application for asylum.

(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), (d) and (e) 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.

15. (1) Any person aggrieved by, or dissatisfied with, any decision of a Board other than a decision under section 14 may, within-

Appeals from the
decisions of Boards

- (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.

(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.

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

Conduct of appeals

- (a) shall set forth-
 - (i) the decision against which the appeal is made;
 - (ii) in the case of an appeal to the Immigration Appeals Tribunal, the Board's reasons for its decision;
 - (iii) the grounds of the appeal; and
 - (iv) 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 -

- (a) notify the immigration officer or the Board, as the case may be, of the decision against which the appeal is made and the grounds of the appeal and give the immigration officer or the Board twenty-eight days or such longer period as the Chairman of the Appellate Tribunal may, for good cause shown, allow, to provide a written defence to the appeal; and
- (b) if the appellant has applied to be heard personally or by a representative, fix a time and a date for such hearing and notify the appellant and, as the case may be, the immigration officer or the Board thereof.

(3) 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 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.

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

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

Orders of Immigration Appeals Tribunal and appeals from its decisions

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 court from a decision of the Immigration Appeals Tribunal on a point of law only.

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, 29 or 46, 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 automatic acquisition; 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 26.

(2) Notwithstanding subsection (1)(b) and (d), where a Caymanian holds himself out to be the father of an illegitimate child, 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; and
- (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 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 23, 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.

(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. ^{UK Act}

(4) Any person -

- (a) who has been married to a Caymanian-
 - (i) for at least five years, where the marriage took place prior to the 1st January, 2004; or
 - (ii) for at least seven years, 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 out of the seven years immediately preceding the application;
- (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 an applicant has spent apart from his spouse or away from the Islands, shall not

take into account those occasions when the applicant's absences were because of medical, educational or international business 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 under the decree of a competent court or under a deed of separation;
- (c) has been legally and ordinarily resident in the Islands immediately preceding the death of the deceased; and
- (d) has not, 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) 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.

(9) 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.

(10) 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.

(11) Where any applicant has been granted the right to be Caymanian under this Law or any earlier law, that right shall not be granted to any person applying for a right to be Caymanian as a result of such grant, save for those persons acquiring such right by automatic acquisition.

(12) 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.

Matters for Board's
consideration

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

- (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 automatic acquisition 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 automatic acquisition 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 racialism or any other 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.

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

Procedure in relation to applications for grant under section 22

- (a) shall be in duplicate in the prescribed form;
- (b) shall be accompanied by the prescribed fee; and
- (c) shall 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

25. 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

26. (1) The right to be Caymanian granted by the Board may be lost in any of the following circumstances-

(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 to the spouse of a Caymanian under section 22(4), the marriage of the holder-

(i) no longer subsists;

(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) has, in the opinion of a competent court, irretrievably broken down; and

(e) where the holder of the right to be Caymanian by automatic acquisition has not been legally and ordinarily resident in the Islands for a period of seven years immediately before reaching the age of eighteen years.

(2) Any person to whom subsection (1)(e) applies shall notify the Board of the relevant circumstances forthwith, and wilful failure to do so is an offence.

(3) The Board may, by order, deprive 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 any such order-

- (a) the Board shall, by notice, inform the person affected of the order and of his right of 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 Statistician and 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.

27. 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-

Revocation on conviction

- (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 its own motion.

PART IV - Permanent Residence

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

Categories of permanent residence

- (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 sections 33 and 35, the Chief Immigration Officer may grant the right to reside in the Islands to applicants in the following categories-

- (a) wealthy retirees; and
- (b) entrepreneurs or investors.

(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-

- (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; and
- (e) he falls into one of the categories enumerated in section 37(1).

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

29. (1) A person who has been legally and ordinarily resident within the Islands for a continuous period of eight years immediately preceding the application may apply in the prescribed form and manner to the Board for permission for himself and his dependants, if any, to reside permanently in the Islands.

(2) In considering an application under subsection (1) the Board shall take into account-

- (a) the skills, qualifications, finances, character and health of the applicant;
- (b) the need of the Islands to attract persons possessing admirable characteristics, to become a permanent part of the community;
- (c) the extent to which the applicant has demonstrated-
 - (i) his knowledge of the Islands;
 - (ii) his contribution to the Islands; and
 - (iii) a willingness to be assimilated into the local community; and
- (d) the overall suitability of the applicant measured against the criteria set out in paragraph (c) and the application of the points system.

(3) Where an application under subsection (1) has been refused, the applicant shall not be permitted to make any further application until after the lapse of one year from the date of the communication of the decision.

(4) 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 to accept employment from any employer of his choice but shall restrict him to working within the particular occupation or occupations specified by the Board, and such certificate may be varied by the Board.

(5) 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 outlined in subsection (4).

(6) 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.

(7) 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.

(8) 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.

(9) A person who enjoys the status of permanent resident granted under any earlier law, may apply to the Board for a variation of that status to enable him to acquire the rights outlined in subsection (4), but, in considering an application under this subsection, the Board shall take into account the provisions of section 42(4) and, if his application is successful, he shall be granted a Residency and Employment Rights Certificate.

(10) The benefits enjoyed by the holder of a Residency and Employment Rights Certificate may be extended at the Board's discretion to the child of that holder who-

- (a) has reached the age of eighteen years;
- (b) applies to the Board for a certificate;
- (c) is of proven good character and conduct;
- (d) has demonstrated his intention to continue to reside in the Islands;
and
- (e) has legally and ordinarily resided in the Islands for at least seven years immediately prior to his application.

(11) Subject to section 37, the holder of a Certificate under this section may, at the discretion of the Board, lose his right to permanent residence where, following the grant, he is resident outside the Islands for an aggregate of more than ninety days in any period of three hundred and sixty-five days.

Residency and
Employment Rights
Certificate for spouse of
a Caymanian

30. (1) The spouse of a Caymanian may apply to the Caymanian Status and Permanent Residency Board for permission to reside in the Islands and if such application is successful the Board shall grant to the applicant a Residency and Employment Rights Certificate for a period of seven years, which shall be renewable at the discretion of the Board.

(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) In considering the application, the Board shall satisfy itself that-

- (a) the spouse of the applicant is Caymanian;
- (b) the marriage is not a marriage of convenience;
- (c) the spouse is of good character;
- (d) the marriage is stable; and
- (e) 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 his dependants 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.

Dependants of
Residency and
Employment Rights
Certificate holders

31. 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 29(1) if-

- (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.

32. (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 29(5) shall forfeit his rights under that Certificate if-

Loss of Residential and
Employment Rights
Certificate

- (a) he falls within any of the provisions of section 37;
- (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.

33. (1) A person of independent means who-

Residential Certificate
for Retirees

- (a) has attained the age of fifty-five years or, at the discretion of the Board, a lower age;
- (b) has no dependants under the age of sixteen years; and
- (c) satisfies the requirements of this section,

may apply to the Chief Immigration Officer for a Residential Certificate for Retirees and where the applicant is successful, the certificate shall be issued by the Chief Immigration Officer.

(2) An applicant under this section shall be granted a Residential Certificate for Retirees, 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 a clean criminal record;

- (b) he is in good health and possesses adequate health insurance coverage; and
- (b) 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-

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

(4) The spouse and dependant of the holder of a Residential Certificate for Retirees shall be granted a Residential Holder's (Dependant's) Certificate, the holder of which is permitted, subject to this section, to reside in the Islands without the right to work.

(5) Upon the death of the holder of a Residential Certificate for Retirees 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 Residential Certificate for Retirees upon satisfying the requirements of this section.

(6) Where an application for a Residential Certificate for Retirees 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.

(7) The right of the 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.

Revocation of
Residential Certificate
for Retirees

34. The holder of a Residential Certificate for Retirees may, at the discretion of the Board, have his right to reside in the Islands revoked if -

- (a) he fails to maintain the financial standing stipulated in section 33;
or
- (b) he was not resident in the Islands for a period of thirty days in any period of three hundred and sixty-five days.

Residential Certificate
for Entrepreneurs and
Investors

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

- (a) has and is likely to continue to have the necessary professional, technical and other knowledge to successfully carry on the business proposed; and

- (b) has invested the prescribed sum of money in a licensed employment-generating business in the Islands,

may apply to the Chief Immigration Officer for a Residential Certificate for Entrepreneurs and Investors but such certificate shall not confer any right to a licence under the Local Companies (Control) Law (1999 Revision) or the Trade and Business Licensing Law (2003 Revision).

1999 Revision
2003 Revision

- (2) Where the Chief Immigration Officer is satisfied that -
 - (a) the applicant has a clean criminal record;
 - (b) the applicant is in good health and possesses adequate health insurance coverage; and
 - (c) the investment is likely to make a significant contribution to the economic and cultural life of the Islands,

he shall issue a certificate for a period of twenty-five years renewable at the discretion of the Chief Immigration Officer.

(3) The spouse and dependants of the holder of the Residential Certificate for Entrepreneurs and Investors shall be granted a Residential Holder's (Dependant's) Certificate, the holder of which is permitted, subject to this section, to reside in the Islands.

(4) Upon the death of the holder of a Residential Certificate for Entrepreneurs and Investors, 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 Board, but the said surviving spouse may, within a period of three months of any revocation, apply for the grant of a Residential Certificate for Entrepreneurs and Investors upon satisfying the requirements of this section.

(5) Where an application for a Residential Certificate for Entrepreneurs and Investors 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.

(6) The right of the 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.

36. The holder of a Residential Certificate for Entrepreneurs and Investors may, at the discretion of the Board, have his right to reside in the Islands revoked if-

- (a) he fails to provide the Chief Immigration Officer with an annual financial statement pertaining to his investments;
- (b) he fails to maintain the required prescribed level of investment;
- (c) he loses his business licence; or

Revocation of
Residential Certificate
for Entrepreneurs and
Investors

General provisions
relating to loss of
permanent residency

1997 Revision

- (d) he was not resident in the Islands for a period of thirty days in any period of three hundred and sixty-five days.
37. (1) Without prejudice to the rights of the Board to revoke permanent residency under this Law, the holder of a certificate of residency of any kind shall lose his rights under that certificate where-
- (a) he organises or engages in subversive political activity, or organises, causes or promotes racialism 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 was 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; or
 - (i) he is deemed by the Governor to be an undesirable inhabitant of the Islands.
- (2) 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; 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 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

38. (1) This Part does not apply to - Persons exempted
- (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).
39. 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 or a Residential Certificate for Entrepreneurs and Investors; or
 - (d) he is authorised to do so by a work permit granted under this or any earlier law.
40. (1) A person or his prospective employer may apply for a work permit- Application for work permit
- (a) to the Work Permit Board or the Business Staffing Plan Board, as the case may be, where he seeks to engage in gainful occupation in Grand Cayman; or

- (b) to the Cayman Brac and Little Cayman Immigration Board, where he seeks to engage in gainful occupation in Cayman Brac or Little Cayman.

(2) An application for a work permit shall be in the prescribed form, accompanied by the prescribed fee and such documentary evidence as may be prescribed.

Application of sections to Cayman Brac and Little Cayman Immigration Board

41. In performing its function of granting work permits, sections 42, 46, 51, 53 and 54 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

42. (1) The Work Permit Board or the Business Staffing Plan Board, as the case may be, in considering an application under section 40, shall, subject to any general directions which the Governor may, from time to time, give in respect of the consideration of such application, take particularly 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-
 - (i) a Caymanian;
 - (ii) a member of his staff; or
 - (iii) a person legally and ordinarily residing 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, he has established an adequate training or scholarship programme that would ensure that a Caymanian is being trained to fill the position.

(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 benefit which he may bring to the Islands;
- (d) the sufficiency of the resources or the proposed salary of the worker and his ability to adequately maintain his dependants;
- (e) his facility in the use of the English language;

- (f) the location, type and suitability of the residential accommodation available for the worker and his dependants, if any, throughout the term of the work permit; and
- (g) the hardship that may be caused to the spouse and dependants of the worker.

(4) Generally-

- (a) the protection of local interests and, in particular, of Caymanians;
- (b) the availability of the services of a suitable person already legally and ordinarily resident in the Islands; and
- (c) the requirements of the community as a whole, and such other matters that may arise from the application.

(5) For the purpose of being satisfied of the matters specified in subsection (1)(b), the Board shall consider all responses to the advertisement from Caymanians and persons legally and ordinarily resident in the Islands unless the applicant has been exempted, in respect of that application, from the requirement to advertise.

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

43. (1) Every company, firm or other business enterprise employing-

Business Staffing Plan

- (a) fifteen or more work permit holders shall; and
- (b) fewer than fifteen work permit holders may,

within one year of the establishment of the business, submit to the Business Staffing Plan Board a Business Staffing Plan in accordance with the Third Schedule to the Regulations.

(2) An employer may, in the Business Staffing Plan, make request for the approval by the Board of a specific number of positions for exempted employees, and such number or such other number as the Board shall approve after consultation with the employer shall be designated by the Board in relation to that employer for the duration of the period covered by the Business Staffing Plan, but the designated number may be varied, from time to time during that period, upon application by the employer by the Board and after any further consultation that the Board may consider appropriate.

44. In considering an application for a work permit for a professional employee, the Work Permit Board 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 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

45. The Board shall give priority to employers who show a special need for work permits for domestic helpers.

Grant or refusal of work permit

46. (1) Subject to section 50, the Board in considering an application under section 40 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 50, on the grant of an application under section 40, the work permit applied for shall be issued in the prescribed form for such period of up to three years generally, as the Board may determine, save that the Board 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 on the grant.

(3) Unless the applicant is married to a Caymanian, the Board shall not, except in exceptional circumstances, grant a work permit to a person wishing to enter self-employment.

(4) 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 (2003 Revision), any licence required under that Law for the carrying on of the gainful occupation

2003 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 (1999 Revision).

1999 Revision

(5) 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.

(6) The Board may vary or modify the terms of a work permit upon application made by the employer or the worker.

(7) 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 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.

(8) 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.

(9) An application for, or the grant or renewal of, a work permit may be refused or revoked on any of the following grounds-

- (a) that there is refusal or inability on the part of the applicant to support dependants properly;
- (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, racialism or any other illegal activity;
- (d) that the applicant has 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 the creditors have been adversely affected;
- (e) that the applicant has been convicted of an offence;
- (f) that the work permit holder has been promoted or re-designated by his employer without the prior approval of the Board; or

(g) that the applicant is in the Islands as a tourist visitor.

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

- (a) all objections shall be considered;
- (b) an inquiry shall be made into the applicant; and
- (c) all allegations shall be corroborated and a full investigation of such allegations carried out.

Exempted employees

47. (1) An employer may, upon making application for a work permit or a renewal thereof, nominate the prospective holder or the holder, as the case may be, to be an exempted employee.

(2) Where an employer has in place a Business Staffing Plan under section 43(2), the total number of workers designated by the Board shall not exceed the total number of exempted positions designated under the Business Staffing Plan.

(3) Before the Board can designate a worker or prospective worker as an exempted employee, it shall satisfy itself that he fulfils one or more of the following requirements at the time of his employment in the Islands-

- (a) he is recognised as having particular expertise in his field of practice, trade or employment;
- (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 or will be a professional employee whose expertise or skills 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 be detrimental or cause serious hardship to his employer, to Caymanians or 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 exists 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 an exempted employee.

(4) Where a work permit holder is designated an exempted employee in the absence of a finding by the Board of any of the circumstances described in section 42 or 46(8), upon application by an employer for renewal of his work permit, a presumption shall exist in favour of renewals until that worker has been legally and ordinarily resident in the Islands for a period of nine consecutive years to enable him to apply for permanent residence.

48. During the currency of a work permit, the holder of that permit may not change his employer unless-
- Change of employer
- (a) the Board 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.
49. 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.
50. (1) Subject to subsections (2), (3), (5) and (6) and section 38(1)(a), the maximum period for which a person who is not a Caymanian, a permanent resident or a resident may be allowed to continuously reside legally and ordinarily in the Islands, is seven years, and, after such period of continuous residence, the Board shall not grant or renew his work permit until two years after he has left the Islands.
- Term limits
- (2) Where, at the 1st January, 2004, a work permit holder has worked continuously in the Islands for an aggregate period, inclusive of the period of his current permit and of any period he may have spent in the Civil Service-
- (a) of five years but less than six years, he may, if application is made for the grant or renewal of further work permits, and at the discretion of the Board, be granted work permits for a period not exceeding three years to enable him to apply for a grant of permanent residence under section 29;
 - (b) of six years but less than seven years he may, if application is made for the grant or renewal of further work permits, and at the discretion of the Board, be granted work permits for a period not exceeding two years to enable him to apply for a grant of permanent residence under section 29;
 - (c) of seven years but less than eight years, he may, if application is made for the grant or renewal of further work permits, at the discretion of the Board, be granted work permits for a period of one year to enable him to apply for a grant of permanent residence under section 29;

- (d) of between eight and fifteen years, he may apply, on or before the 1st January, 2007, for the grant of permanent residence in accordance with section 29; and
- (e) in excess of fifteen years, he may apply, on or before the 1st January, 2007 for a grant of permanent residence and he shall, in the absence of exceptional circumstances, be granted permanent residence under section 29.

(3) Where a person appeals against the decision of the Board or the Cayman Brac and Little Cayman Immigration Board in respect of this section, the relevant Board having determined that by virtue of the expiry of the relevant maximum prescribed period for which he may hold a work permit, 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 29 for permission to reside permanently in the Islands save and except to the extent that his appeal is wholly or partially successful.

(4) Where a worker has been granted a final work permit under this section other than under subsection (11) which work permit has expired, his employer may apply to the Chief Immigration Officer for a special permit (in this section referred to as a “fixed-term work permit”) and the Chief Immigration Officer, acting in person and in his absolute discretion, may grant such a permit for a maximum period of nine months.

(5) A fixed-term work permit-

- (a) shall be non-renewable and non-extendable;
- (b) shall confer upon the worker the right to have reside with him in the Islands for the duration thereof such of his dependants as were previously approved under the last work permit held by him; and
- (c) shall not confer upon the worker or his dependants any right to apply under section 29 for the right to reside permanently in the Islands, save that nothing contained herein shall affect any right acquired prior to the grant of such permit.

(6) 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.

(7) Section 54(2) shall not apply to a grantee of a fixed-term work permit.

(8) 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 (2) shall be entitled to apply for or obtain a fixed-term work permit.

(9) Subsection (4) shall remain in force until the 31st December, 2006.

(10) Notwithstanding subsection (2), the Board, at any time, may grant to a person referred to in subsections (2)(a), (b) or (c), additional work permits to enable him to complete the aggregate period of nine years in the event that he is designated an exempted employee.

(11) Where, upon or prior to the expiration of a work permit granted under subsection (2), a worker has applied for a grant of permanent residence, his right to reside and work in the Islands shall continue upon the same terms and conditions as apply to his final work permit unless and until the Board denies his application for a grant of permanent residence, but should such application be unsuccessful, he shall be given a final work permit of one year's duration.

(12) A person-

- (a) who is married to a work permit holder or to a person employed by the Government of the Islands or of the United Kingdom in the Islands;
- (b) whose work permit by reason of subsection (2) will expire before that of his spouse or is not eligible otherwise to reside continuously in the Islands save as a dependant;
- (c) whose marriage is not a marriage of convenience;
- (d) who is not living apart from his spouse under a decree of a competent court or under a deed of separation; and
- (e) 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,

may, during the currency of his spouse's work permit, apply for the grant of a work permit or the renewal of an existing work permit and the Board may grant the application for a period not exceeding that of the spouse's work permit or any renewal thereof.

(13) The Board, in calculating under subsection (12)(e) the period of time that an applicant has spent apart from his spouse, shall not take into account those occasions when the applicant's absences were because of medical, educational or business reasons.

51. (1) The Chief Immigration Officer, or his designate at or above the level of Assistant Chief Immigration Officer, may on application in the prescribed form, accompanied by such documentary or other evidence as may be prescribed, by or on behalf of a person who desires to enter and remain in the Islands temporarily

Temporary work permit

for the purposes of any gainful occupation, grant to such person a temporary work permit in the prescribed form upon payment of the prescribed fee.

(2) A temporary work permit granted under subsection (1) shall be for such period not exceeding six months as the Chief Immigration Officer or person granting the permit shall think fit and such grant may neither be extended nor renewed.

(3) In order to determine whether an application under this section should be granted or refused, the Chief Immigration Officer shall have regard to the criteria enumerated in sections 42(2)(a), (3) and (4) and 46(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 to satisfy the Chief Immigration Officer that paragraphs (a) and (b) of subsection (4) have been complied with.

(7) A prospective employer 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, is guilty of an offence.

Business visitor's permit
2004 Revision

52. (1) A local company registered under the Companies Law (2004 Revision) or a local partnership or firm working in the Islands which 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.

(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 visitor's 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 42(1) as he considers relevant and may agree such business plan with the company, partnership or firm submitting it, and, when agreeing it or 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.

53. (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.

Work permit fees

(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 school leaving age; 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) Whoever contravenes subsection (3) is guilty of an offence.

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

54. (1) Subject to subsection (2), whoever, in contravention of this Part, engages in gainful occupation or fails to comply with any condition or limitation contained in any licence is guilty of an offence and liable on summary conviction in respect of a first offence to a fine of fifteen thousand dollars and to imprisonment for one year and in respect of a second or subsequent offence to a fine of twenty-five thousand dollars and to imprisonment for two years.

(2) Where the holder of a work permit has, during its currency, applied to the Board for a new one-year work permit on the same terms and conditions as the existing work permit and for a period to commence immediately upon its expiration, or for an extension of the existing work permit, then if such application has-

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

notwithstanding the fact that the original work permit has expired, it shall not be an offence for the applicant to continue to be engaged in gainful occupation of the same kind while he awaits a notification of the determination of his application or his appeal.

(3) Subject to subsection (4), an employer who contravenes this Part or a condition or limitation contained in a work permit, is guilty of an offence.

(4) It is a defence for a person charged with an offence under this subsection 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.

(5) For the purpose 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.

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

(7) 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.

PART VI - Entry and Landing

55. (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.

56. (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) Whoever fails to comply with subsection (1), or with any requirement duly given thereunder, is guilty of an offence.

57. (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 -

Inward passenger and crew manifests

- (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, in the first instance, appeal to the Chief Immigration Officer.

58. (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

Control of landing from vessels

Islands before permission generally to disembark has been given by an immigration officer.

(2) Whoever fails to comply with subsection (1) is guilty of 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

59. (1) 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) Whoever fails to comply with subsection (1) is guilty of an offence.

Government vessels

60. Sections 56, 57, 58 and 59 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.

Governor may issue entry permit

61. Notwithstanding this Part, the Governor may, in writing under his hand, 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.

Duty to produce passport, etc.

62. (1) Unless otherwise exempted by this Law, every person on 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 an immigration officer, and, in such cases as may be prescribed, a relevant visa.

(2) Whoever fails to comply with such requirement is guilty of an offence.

Certain persons deemed not to have landed in the Islands

63. (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.

(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 these Islands if he

resides in a vessel, including a yacht or houseboat, within the territorial waters of the Islands.

64. Without prejudice to any of the succeeding provisions of this Law, it is an offence for any person other than a person -

General prohibition from landing in the Islands without specific permission of immigration officer

- (a) who is Caymanian; or
- (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 46 or 51;
 - (ii) a person named in a work permit as a dependant of the licensee;
 - (iii) a person who is exempted under section 38 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.

65. (1) Persons other than those referred to in section 64, 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.

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

(2) 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 Board of such extension.

(3) 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.

(4) 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.

(5) The Governor or the Chief Immigration Officer, so revoking under subsection (3), 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.

(6) 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.

Requirements to be satisfied by visitors

66. (1) Before granting permission to any person under section 65, 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.

(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 65 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 65, 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) Whoever fails to comply with any condition or restriction imposed by this section is guilty of an offence.

Safeguards regarding permission to land, etc.

67. (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 64; 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 64 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.

68. (1) Subject to subsection (4), whoever, 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 is guilty of 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 in the Evidence Law (2006 Revision), any such record shall be received in evidence in any court or in any tribunal whatsoever in the Islands as evidence, *prima facie*, of any entry or particular entered therein.

2006 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.

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

- (a) a person who may be required to submit to examination under section 67(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

70. (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 refuses to receive any such person and take him away from the Islands as required by subsection (1) is guilty of 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.

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

71. (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.

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

73. (1) Whoever-

- (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 Part, is guilty of an offence and liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for five years.

(2) Whoever-

- (a) knowingly assists 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),

in circumstances where such landing or departure is, or would be, in contravention of this Part, is guilty of an offence and liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

(3) 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 Part.

(4) 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-

- (a) permanent residence;
- (b) a Residential Certificate for Entrepreneurs and Investors; or
- (c) a Residential Certificate for Retirees,

shall not, while he continues to enjoy the benefit of the grant, be subject to a deportation order.

Register of non-Caymanians

74. 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

75. Nothing 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

76. (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 77.

(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 *bona fide* travel agencies.

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

Prohibited immigrants

- (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 there from 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 fine.

1997 Revision

78. (1) No student may attend school in the Cayman 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 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 to adequately 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.

PART VII - Asylum

79. (1) A person who is in legal custody under section 69(1) or a person to whom permission to remain in the Islands has been granted under section 65(1) or 69(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 who is refused asylum under subsection (1) may appeal against the refusal by the Chief Immigration Officer to the Immigration Appeals Tribunal on the ground that his removal in consequence of the refusal would be contrary to the Refugee Convention.

(7) A person who-

- (a) has been refused leave to remain in the Islands on the basis of an application for asylum made by him; and
- (b) has been granted, whether before or after the refusal, limited leave to remain,

may, if that limited leave will not expire within fourteen days of his being notified of the decision, appeal to the Immigration Appeals Tribunal against the refusal on the grounds that requiring him to leave the Islands after the time limited by that leave would be contrary to the Refugee Convention.

(8) 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 formerly notified of the outcome of the application or appeal; or
 - (ii) withdraws or abandons the application or appeal.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

80. Section 79 does not entitle a person to appeal against a refusal of an application if-

Limitations on rights of appeal under section 79

- (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,

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

PART VIII-Deportation

81. 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

82. (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 54 or 73(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 fitly 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, vary and modify a deportation order and duty to report to Secretary of State

83. (1) Subject to sections 81 and 82, 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 79.

(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.

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

Form of deportation order

85. (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.

86. (1) Subject to section 85(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) Whoever contravenes subsection (1) is guilty of an offence.

(3) Whoever returns to the Islands in contravention of a deportation order is guilty of an offence and may again be deported under the original order, and section 85(2) shall apply accordingly in respect of such person.

87. (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) Whoever contravenes subsection (1) is guilty of 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

88. Whoever, without lawful excuse, knowingly harbours or conceals any person who is in the Islands in contravention of a deportation order is guilty of an offence.

Arrest of person
contravening, etc., this
Part

89. Whoever 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

90. 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 81 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

91. 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

92. (1) A person to whom a work permit has been issued under section 46 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 (2001 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.

2001 Revision

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

93. (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 68(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.

94. 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

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

Power to put questions and require production of documents

- (a) put any question to any person, being a question reasonably required in connection with the proper discharge of their, its or his 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) Whoever 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 98, 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

96. (1) Whoever 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 is guilty of an offence.

(2) Whoever 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

97. 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.

98. (1) Whoever-

- (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,

is guilty of an offence.

(2) Whoever 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.

99. Whoever is guilty of 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.

Punishment for offences for which no penalty is provided

100. Whoever enters into a marriage of convenience is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year.

Offence to enter into marriage of convenience

101. 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.

102. (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 discretion 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.

Transitional provisions

103. (1) A work permit or a temporary work permit, granted under an earlier law and in force immediately prior to the 1st January, 2004 shall continue in force for the remainder of the term as if it were a work permit or temporary work permit, as the case may be, granted under this Law, 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 this Law.

(2) Every work permit, deportation order, warrant, administrative order or other document that was issued, made or granted under the Immigration laws before the 1st January, 2004 and that was valid immediately prior to that date shall have effect as if issued, made or granted under this Law.

(3) A person who immediately before the 1st January, 2004 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-

2003 Revision

- (a) were acquired under the repealed Immigration Law (2003 Revision) or any earlier law; and
- (b) existed immediately prior to the 1st January, 2004.

(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.

2001 Revision

(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).

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

104. In performing their functions and exercising their powers generally under this Law, sections 95 and 96 with all necessary amendments shall be construed as applying also to the Cayman Brac and Little Cayman Immigration Board.

105. 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. Conflict with other laws

106. Nothing in this Law shall be construed so as to derogate from or abridge any provision of - Savings of other laws

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

or any law amending or replacing such laws.

107. Until regulations are made under section 93, the regulations made under the repealed Immigration Law (2003 Revision) shall continue in force as if made under this Law. Saving

SCHEDULE

IMMIGRATION LAW

section 25

(2006 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 30th day of May, 2006.

Carmena Watler
Clerk of Cabinet

(Price \$ 13.60)