

IMMIGRATION IN THE CAYMAN ISLANDS - Caymanian Status applications

The new immigration law for the Cayman Islands, The Immigration Law 2003, which took effect on January 01, 2004, has brought with it a number of important changes.

Among the provisions are new requirements for persons wishing to visit, reside, work, conduct business or study in the Cayman Islands. The law also defines who is a Caymanian as of right, and introduces powers, procedures and mechanisms to improve efficiency in administering the system.

THE RIGHT TO BE CAYMANIAN

The new legislation clarifies what constitutes the right to be Caymanian. Among the main effects of these provisions is that a person born outside of the Islands and who has a Caymanian grandparent can now obtain the right to be Caymanian without having to prove that one of his or her parents is / was Caymanian. However, persons born overseas, whether it is their parents or grandparents who are / were Caymanian, must now be legally and ordinarily resident in the Islands before they can apply to the board for the right to be Caymanian. In the case of non-Caymanians who marry Caymanians on or after January 1, 2005 they will now have to wait seven (7) years instead of five (5) before they can apply. For people with no family ties to the Islands, the law now requires them to have been resident for at least fifteen (15) years and to be naturalized before being eligible.

There are five categories of persons who have the right to be Caymanian.:

CAYMANIAN AT THE COMMENCEMENT OF THE LAW

A person who already had Caymanian Status under the Immigration Law (2003 Revision) or any earlier law.

The other four categories are made up of persons who receive the right to be Caymanian under Part III of the new law. These are:

Caymanian as of right

This refers to a person in one of three groups:

- a) a child born inside or outside the Cayman Islands after the commencement of the law and who, at the date of his birth, had at least one parent who was settled in the Islands and was Caymanian;
- b) a child born outside the Islands after the commencement of the law and who, at the date of his birth, had at least one parent who was Caymanian by any means except by descent; or
- c) a child who gains the status of Caymanian on the basis of being the legitimate child, step-child or adopted child of a person who possesses Caymanian Status. A child born out of wedlock to a Caymanian man will have the right to be Caymanian if the man can prove to the Board's satisfaction that he is the biological Father, if the Court rules that he is the Father under the Affiliation Law (1995 Revision), and if the Court orders him to pay for the child's maintenance and education.

Caymanian by grant of the Caymanian Status and Permanent Residency Board

Such grants can be made on the basis of the person being:

- ✓ the child or grandchild of a Caymanian born in the Islands;
- ✓ a person who is a British Overseas Territories citizen by reason of naturalisation or registration;

- ✓ a person married to a Caymanian for at least five (5) years, where the marriage took place before the commencement of this law, or at least seven (7) years where the marriage took place on or after the commencement of this law;
- ✓ the surviving spouse of a Caymanian; or
- ✓ a person who possesses Caymanian status but who will lose such status upon reaching the age of eighteen (18) years.

Person obtaining the right by automatic acquisition

This refers to the child of someone granted the right to be Caymanian and who is under eighteen (18) years old and who lives in the Islands.

Person granted the right by the Governor in Council

The Governor can grant the right to be Caymanian to any person if, in his opinion, he finds special reason for so doing.