

IMMIGRATION IN THE CAYMAN ISLANDS - Work Permits

Work Permits, Business Staffing Plans & Transitional Provisions

Two of the main features of the new Immigration Law are that it lengthens the period for which a work permit can be granted and it sets a 'term limit' on the amount of time that a person can remain continuously in the Cayman Islands on work permits (the so-called rollover policy).

Under the new law there are now two Boards, the Work Permit Board and the Business Staffing Plan Board, to deal with work permit applications:

- ✓ The Work Permit Board is responsible for applications from businesses employing less than fifteen (15) work permit holders or for individual employers
- ✓ The Business Staffing Plan Board deals with applications from companies employing fifteen (15) or more expatriate workers. The Chief Immigration Officer or his designate will deal with applications for temporary permits.

The Boards may grant work permits for up to three (3) years, generally, or for up to five (5) years in the case of domestics, teachers, doctors and ministers of religion. Five (5) year permits can also be granted to holders of certain positions that have been approved under a business staffing plan, which the Board now requires from firms employing fifteen (15) or more foreigners.

Term limit

Seven (7) years is the maximum length of time a work permit holder can work continuously in the Cayman Islands. After this period the Board cannot normally grant the person any further work permits until he or she has left the Islands for at least two (2) years. The only exceptions to this would be a worker designated as an 'exempted employee' in a business staffing plan, or where the Board considers that there are exceptional circumstances. In such cases the Board may, at its discretion, grant additional work permits to enable the person to complete an aggregate period of eight (8) years, thus making him eligible to apply for the grant of permanent residence.

Persons now on work permits

Important transitional provisions have been included for those who, when the law came into effect, had been working continuously in the Islands for an aggregate period of five (5) years or more (including the period of their current work permit and any period spent in the Civil Service). If such persons apply for the grant or renewal of further work permits they may, at the Board's discretion, be granted work permits for a period not exceeding three (3) years. This will enable them to fulfill the eight (8) year residency period, so they are eligible to apply for permanent residence. Persons who have been here for between eight (8) and fifteen (15) years now have three (3) years within which they may apply for permanent residence. For those who have been here for more than fifteen (15) years, the law provides that their application for permanent residence, if made within three (3) years of the commencement of this law, shall, in the absence of exceptional circumstances, be granted.

Business Staffing Plans

While business staffing plans are not new, the law now makes it mandatory that businesses with fifteen (15) or more work permit holders submit a business plan. This must be done within one year of the start of the law or the establishment of the business. For companies employing fewer than fifteen (15) work permit holders, a business staffing plan is optional. Employers should note that if they have an agreed business staffing plan and they wish to apply for work permits for persons to fill positions not

covered in the plan, the applications must be submitted to the Business Staffing Plan Board rather than the Work Permit Board. This is to discourage any attempt to circumvent the Business Staffing Plan system by going to the Work Permit Board for additional permits.

Dependents

Another change in the law is that when considering work permit applications the Board will now take into account not only the applicant's ability to maintain the dependents he or she wishes to bring to the Island but those who are abroad.

Temporary work permits

The one-month temporary and six-month, short-term, work permits have been abolished. Instead, a temporary work permit may now be issued for a period not exceeding six (6) months. All such applications will be made to, and decided by, the Chief Immigration Officer or his designate.

Since such grants are not extendable or renewable it will be important for applicants to state clearly the length of time that the temporary work permit will be required. In deciding whether an application should be granted or refused, the same criteria will be used as for the grant of a full work permit, except that employers will not be required to advertise or to demonstrate that they operate a training programme. Employers should also note that a temporary work permit cannot be converted into a one-year permit. The one-year permit must be submitted and granted prior to the expiry of the temporary permit if the employee wishes to continue to work.