# Parliament of the Cayman Islands

## GOVERNMENT MOTION No. 6 of 2024-2025

## PUBLIC CONSULTATION ON THE PROPOSED AMENDMENTS TO THE IMMIGRATION (TRANSITION) ACT (2022 REVISION) SET OUT IN THE IMMIGRATION (TRANSITION) DISCUSSION WHITE PAPER

**WHEREAS** in December 2023 the Cabinet approved the issuance of drafting instructions to facilitate the amendment of legislation in order to increase fees and fines for specific services provided by the Workforce Opportunities & Residency Cayman (WORC);

**AND WHEREAS** in May 2024 the Cabinet subsequently approved the issuance of drafting instructions to facilitate broader legislative amendments to the immigration framework;

**AND WHEREAS** the Ministry of Border Control, Labour & Culture issued drafting instructions with a view to ensuring that draft legislation was prepared which was consistent with the Government's policy;

**AND WHEREAS** at a meeting of the Cabinet held on 15 January 2025 it was decided that a White Paper outlining the proposed amendments to the Immigration (Transition) Act (2022 Revision) should be prepared and published, accompanied by the relevant the Immigration (Transition) Discussion White Paper which sets out those proposed amendments, in order to encourage a national dialogue;

**BE IT THEREFORE RESOLVED THAT** the Immigration (Transition) Discussion White Paper shall be published on relevant government websites for public consultation from 3 February 2025 to 3 March 2025.

**Moved By:** Honourable Dwayne Seymour, JP, MP
Minister of Border Control, Labour & Culture.

**Received** in the Office of the Clerk this 23rd day of January, 2025.

**Passed/Rejected** by the Cayman Islands Parliament this day of , 2025.

Clerk of the Parliament




Ministry of
Border Control,
Labour & Culture

Cayman Islands Government

# THE IMMIGRATION (TRANSITION)

# DISCUSSION WHITE PAPER

**Consultation Overview**

**22 January 2025**

## SUBMISSIONS

The Ministry of Border Control, Labour & Culture invites the public to provide comments and feedback on the Immigration (Transition) Discussion White Paper.

Please note that any comments or feedback received may be made public, albeit on an anonymous basis where possible. Responses may also be shared with other public bodies to assist the Ministry with developing relevant policies.

All feedback is to be submitted directly, via email to publicconsultation.gov.ky. The deadline to respond to the Ministry is **5pm Monday, 3 March 2025**.

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**Consultation Overview: Immigration (Transition) Discussion Draft**

## 1. Purpose

1.1 The purpose of this White Paper is to provide an overview of the proposed Immigration (Transition) Discussion White Paper. This Discussion White Paper aims to:

a) Implement revenue-generating measures associated with Workforce Opportunities and Residency Cayman (WORC).
b) Improve the immigration framework to better address the evolving needs of the Cayman Islands.
c) Secure Cabinet approval for the publication of the Discussion Draft in the Extraordinary Gazette and its tabling in Parliament.

## 2. Background

### 2.1 Legislative Amendments

- In December 2023, Cabinet approved drafting instructions to increase fees and fines related to WORC and Customs and Border Control (CBC).
- In May 2024, additional drafting instructions were approved, focusing on amendments to:

i. Work Permits
ii. Right to be Caymanian (Cayman Status)
iii. Residency and Employment Rights Certificate (RERC)/Permanent Residency
iv. Information Sharing
v. Definitions and
vi. Fees

### 2.2 Migration Context

The Cayman Islands, like other developed nations, faces a range of migration challenges. These include people relocating for economic opportunities, education, family reunification, or to escape conflicts or human rights violations. These global trends highlight the importance of a responsive and adaptive immigration framework.

Global immigration plays a significant role in shaping the economic, social, and cultural landscapes of many nations. For the Cayman Islands, with a national population of approximately 85,000 and an expatriate community making up over 60%, immigration has been an integral part of the islands' socioeconomic framework. The expatriate population has made important contributions to economic growth, particularly in key industries such as finance, tourism, and construction. At the same time, immigration presents certain challenges that require thoughtful consideration to ensure the long-term sustainability of the Islands' infrastructure, social harmony, and national identity.

The significant size of the expatriate community in relation to the local population can present challenges for social integration, potentially leading to misunderstandings or tensions between Caymanians and expatriates. Some members of the local population may feel concerned about preserving their cultural heritage and national identity amidst the growing presence of foreign workers. To address these realities, it is imperative that our immigration legislation evolves to balance the need for effective migration management with the protection of Caymanian interests.

To ensure long-term sustainability, it is important to thoughtfully manage immigration so that the growth of the expatriate population aligns with the country's capacity to provide essential services. Additionally, a heavy reliance on a large expatriate workforce could make the Islands more susceptible to economic fluctuations and changes in global migration trends. A modernized framework will ensure that the Cayman Islands remains resilient in the face of shifting migration dynamics while fostering economic growth and social stability.

# 3. Key Amendments and Provisions

## 3.1 Renaming the Legislation

### I. The Caymanian Protection Act

- The Immigration (Transition) Act (2022 Revision) will be renamed the Caymanian Protection Act to better reflect its purpose.

## 3.2 Revenue-Generating Measures

### II. Fee Revisions

- Holders of Certificates of Direct Investment must file an annual declaration; failure to do so will be an offence and grounds for revocation.
- Residency Certificate holders (Substantial Business Presence) are also required to file annual declarations, with similar penalties for non-compliance.
- The Director of WORC will have the authority to reissue certificates or permits and charge associated fees.
- Refund, waiver, or reduction of fees will be formalized through new regulations.

## 3.3 Immigration Framework Improvements

### III. Work Permits

- **Term Limit Extension**: The term limit for work permits will increase from 8 years to 9 years before eligibility for Permanent Residency (PR) application.
- **Certificate for Farmers**:
  - Introduced to support local agriculture and sustainability.
  - Renewable for 5 years, up to a maximum of 10 years (i.e.; Limited to two renewals).
- **Certificate for Specialist Caregivers**:
  - Spouses, civil partners, and dependents will not gain employment rights through this certificate.

- **Vacancy Advertising Requirements**:
    - Employers must advertise vacancies in local newspapers or prescribed media and on the WORC portal for two consecutive weeks (i.e., 14 days).

## 3.4 Right to be Caymanian (Cayman Status)

- Simplified application processes for individuals with generational ties to the Cayman Islands for formal confirmation of that person's right to be Caymanian:
    i. Applying in the prescribed form to the Director of WORC; or
    ii. Becoming formally confirmed by the Director of WORC by virtue of the person's connection with an applicant.
- Rebranding certain terms or providing a definition for terms included in the Act for clarity and acknowledgment of indigenous status:
    i. "*Caymanian as of right*" to "*Native Caymanian*",
    ii. "*Caymanian by entitlement*" to "*Caymanian by Dependency*", and
    iii. "*Caymanian by Grant*" means any of the following persons who are granted the right to be Caymanian —

        (a) a person who is a British Overseas Territories Citizen by reason of a certificate of naturalisation or registration issued under the British Nationality Act, 1981 or any Act preceding, amending or replacing that Act;

        (b) a person who is a British Overseas Territories Citizen by virtue of the person's connection with another overseas territory;

        (c) a person who has been married to, or been in a civil partnership with, a Caymanian, pursuant to section 28(5);

        (d) the surviving spouse or civil partner of a Caymanian, pursuant to section 28(7); or

        (e) a person who —

            (i) has attained the age of seventeen years;

            (ii) is Caymanian by dependency, which status —

                (A) will expire when that person attains the age of eighteen years; or

                (B) has expired upon that person's having attained the age of eighteen years; and

            (iii) 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 for the grant of the right to be Caymanian.

### 3.5 Residency and Employment Rights Certificate (RERC)

- RERCs on the basis of marriage to PR holders will now have a 10-year duration before eligibility for Naturalization.
- RERCs on the basis of marriage to Caymanians will have a 7-year duration before eligibility for Naturalization.
- Continuation of RERC based on having Caymanian children now requires proof of financial and parental support.

### 3.6 Information Sharing

- WORC will collaborate with government entities like the Royal Cayman Islands Police Service, Customs and Border Control Service, the Director of Public Prosecution, the Department of Community Rehabilitation, the Department of Children and Family Services, the Department of Financial Assistance and the Scholarship Secretariat to:
    - Share information relevant to applications.
    - Promote collaboration on character assessments relating to the issuing and revocation of PR and Cayman Status applications.
    - Promote and facilitate the employment of Caymanians.

### 3.7 Other Definitions

- Introduced definitions for other terms like "developed real estate" and "by Descent" to clarify eligibility for various certificates and rights.

### 3.8 Other Key Amendments

- Financial standing requirements for adding dependents to work permits will now be detailed in legislation rather than internal policy.
- Work permit holders will be restricted from changing jobs without exiting the Cayman Islands for at least one year.

## 4. Discussion and Recommendations

- The proposed amendments reflect a balanced approach to:

1. Generate revenue to sustain the operations of WORC.
2. Improve transparency, equity, and efficiency within the immigration system.
3. Protect the rights and interests of Caymanians while addressing the Islands' economic and labor demands.

## 5. Next Steps

1. Publish the Immigration (Transition) Discussion White Paper on relevant government websites.
2. Receive feedback and comments from the public on the Immigration (Transition) Discussion White Paper.

3. Review feedback and comments received to determine what will be utilised and included in the Immigration (Transition) (Amendment) Bill, 2025;
4. Finalise the Immigration (Transition) (Amendment) Bill, 2025; and
5. Authorize the Hon. Minister for Border Control, Labour, and Culture to table the Bill in Parliament at the earliest opportunity.

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## 6. Conclusion

The Immigration (Transition) Discussion White Paper, represents a significant step forward in ensuring the Cayman Islands' immigration framework remains robust, fair, and aligned with the country's development priorities.

**CAYMAN ISLANDS**




# IMMIGRATION (TRANSITION) DISCUSSION WHITE PAPER

**A DISCUSSION WHITE PAPER TO CONSULT ON AMENDING THE IMMIGRATION (TRANSITION) ACT (2022 REVISION) TO GIVE THE CAYMANIAN STATUS AND PERMANENT RESIDENCY BOARD AND THE DIRECTOR OF WORC THE DISCRETION TO ALLOW A RESIDENCY AND EMPLOYMENT RIGHTS CERTIFICATE TO REMAIN IN FORCE WHERE THE HOLDER'S MARRIAGE OR CIVIL PARTNERSHIP IS, AMONG OTHER THINGS, DISSOLVED; TO MAKE EXEMPTIONS PROVIDED FOR UNDER SECTION 53(1)(b) EITHER UNCONDITIONAL OR SUBJECT TO SUCH CONDITIONS AS MAY BE DETERMINED BY CABINET; TO INCREASE TERM LIMITS FOR WORKERS; TO INTRODUCE CERTIFICATES FOR FARMERS; TO PROVIDE FOR THE MAKING OF REGULATIONS TO DEAL WITH THE REFUNDS OF FEES IN CERTAIN CIRCUMSTANCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

Discussion Draft

## PUBLISHING DETAILS

**Sponsoring Ministry/Portfolio:** Ministry of Border Control, Labour and Culture (BCLC)

Discussion Draft

**Memorandum of**

# OBJECTS AND REASONS

This Discussion White Paper seeks to consult on amending the Immigration (Transition) Act (2022 Revision) (the "principal Act") to give the Caymanian Status and Permanent Residency Board and the Director of the Workforce, Opportunities and Residency Cayman Office ("WORC") the discretion to permit a Residency and Employment Rights Certificate to remain in force where, among other things, the holder's marriage or civil partnership is dissolved.

The Discussion White Paper also seeks to consult on amending the principal Act to make exemptions under section 53(1)(b) unconditional or subject to such conditions as may be determined by Cabinet.

Additionally, the Discussion White Paper seeks to consult on amending the principal Act to increase term limits for workers and to introduce Certificates for Farmers.

The Discussion White Paper also seeks to consult on amending the principal Act to provide for the refund of fees in prescribed circumstances.

Further the Discussion White Paper seeks to consult on providing for transitional arrangements for certain matters.

Clause 1 seeks to consult on amending section 1 of the principal Act to change the short title.

Clause 2 seeks to consult on amending section 2 of the principal Act to introduce definitions for certain words, including definitions for the words "by descent", "Caymanian by grant" and "developed real estate".

The clause also seeks to consult on deleting the definition of the words "by entitlement" and substitute a similar definition of the words "by dependency".

Clause 3 seeks to consult on amending the principal Act to insert after section 8 proposed new section 8A.

The proposed new section 8A provides that certain entities may, upon request, supply the Director of WORC or a relevant Board with information that is necessary for the exercise of the functions of the Director of WORC or the relevant Board.

Clause 4 seeks to consult on amending section 11 of the principal Act as a consequence of the proposed new section 49A which provides for Certificates for Farmers. The clause provides that among the functions and powers of the Cayman Brac and Little Cayman Immigration Board is the power to process and determine applications for Farmers.

Clause 5 seeks to consult on amending section 13 of the principal Act as a consequence of the proposed new section 49A which provides for Certificates for Farmers. The clause provides that among the functions and powers of the Work Permit Board is the power to process, determine and grant applications for Farmers.

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Clause 6 seeks to consult on amending section 20 of the principal Act to introduce prescribed financial standing requirements that an appellant under that section must meet to be allowed to remain in the Islands by the Director of WORC.

Clause 7 seeks to consult on amending section 21 of the principal Act to provide for appeals to the Immigration Appeals Tribunal by persons who are aggrieved by decisions of the Director of WORC relating to —

(a) the loss of Residency and Employment Rights Certificates under section 40 of the principal Act;

(b) a Certificate for Farmers under the proposed new section 49A; and

(c) the revocation of permission to reside permanently in the Islands based on the Director coming to the conclusion that the relevant marriage is a marriage of convenience or the relevant civil partnership is a civil partnership of convenience.

Clause 8 seeks to consult on amending section 26 of the principal Act to repeal subsection (1) and substitute a proposed new subsection (1). Among other things, the proposed new subsection (1) deletes the reference to the words "Caymanian as of right" and substitutes a reference to "Native Caymanian" as a consequence of the proposed amendment to section 27 which provides a definition of the words "Native Caymanian". The proposed new subsection (1) also deletes the reference to the words "by entitlement" and substitutes a reference to "by dependency", as a consequence of the proposed deletion of the term "by entitlement".

Further, clause 8 seeks to consult on amending section 26 of the principal Act to provide for another mechanism by which a person who believes that that person possesses the right to be Caymanian under section 26(1)(b) may be formally confirmed by the Director of WORC as having that right.

Clause 9 seeks to consult on amending the principal Act to repeal and substitute section 27. The proposed substituted section 27 provides for the definition of the words "Native Caymanian".

Clause 10 seeks to consult on amending section 28 of the principal Act to increase the length of time for which certain categories of persons have to be legally and ordinarily resident in the Islands in order to acquire the right to be Caymanian under that section.

Clause 10 also seeks to consult on amending section 28 of the principal Act to introduce prescribed financial standing requirements that must be met by the surviving spouse or civil partner of a marriage or civil partnership that has not subsisted for at least seven years, as part of the person's application for the right to permanently reside in the Islands.

Clause 11 seeks to consult on amending the principal Act to provide for the consequential amendment of section 30 in light of the proposed deletion of the words "by entitlement" and the substitution of the words "by dependency".

Clause 12 seeks to consult on amending section 33 of the principal Act, among other things, to provide that the holder of the right to be Caymanian by dependency may lose that right where, after reaching the age of eighteen years, the person resides outside the Islands for a

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period of five years, save for absences abroad for purposes of education or medical treatment, and the person fails to notify the Director of WORC accordingly.

Clause 13 seeks to consult on amending section 36 of the principal Act to increase the minimum period for which a non-Caymanian must be legally and ordinarily resident in the Islands in order to apply to reside permanently in the Islands, from eight years to nine years.

The clause also seeks to consult on amending section 36 of the principal Act to clarify that a person shall pay the relevant prescribed fees in respect of the person, the person's spouse or civil partner and the person's dependants for the grant, and the continued approval, of the right to reside permanently in the Islands.

Clause 14 seeks to consult on amending section 37 of the principal Act to increase the minimum period for which a non-Caymanian must be legally and ordinarily resident in the Islands in order to apply to reside permanently in the Islands, from eight years to nine years.

The clause also seeks to consult on amending section 37 of the principal Act to provide that the spouse or civil partner of a permanent resident may apply to the Board or the Director of WORC for a Residency and Employment Rights Certificate, which if granted, will be for a period of ten years, and which, upon application accompanied by the prescribed fee, may be renewed indefinitely at the discretion of the Director of WORC or the Board.

Further, clause 14 seeks to consult on amending section 37 of the principal Act to provide for the repeal of subsections (18) and (20). The provisions relate to the discretion of the Board or the Director of WORC to revoke the right of a spouse or civil partner to reside in the Cayman Islands on the death of the holder of the Residency and Employment Rights Certificate or the dissolution of the holder's marriage or civil partnership. The proposed repealed provisions are proposed for insertion in section 40 of the principal Act by virtue of the amendments being consulted on in clause 16.

Clause 15 seeks to consult on amending section 38 of the principal Act to make clear the entitlements and rights of the non-Caymanian spouse or civil partner of a Caymanian. Among other things, the clause sets out the steps to be taken by the non-Caymanian spouse or civil partner of a Caymanian in order that the spouse or civil partner may reside or be gainfully employed in the Cayman Islands. The spouse or civil partner of a Caymanian may apply to the Director of WORC or the Caymanian Status and Permanent Residency Board for permission to reside in the Islands and if the application is successful the Director of WORC or the Board, as the case may be, shall grant to the applicant a Residency and Employment Rights Certificate which will be for a period of seven years. The Residency and Employment Rights Certificate may, upon application accompanied by the prescribed fee, be renewed indefinitely at the discretion of the Director of WORC or the Board.

Clause 15 also seeks to consult on amending section 38 of the principal Act to provide that the spouse or civil partner may continue to work under the terms and conditions of a work permit until its expiration where a work permit is in effect on the date of the marriage or civil partnership.

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Further, clause 15 seeks to consult on amending section 38 of the principal Act to provide that a person who is granted permanent residence under section 37 prior to entering into marriage or civil partnership with a Caymanian may apply for a Residency and Employment Rights Certificate under section 38 of the principal Act as the spouse or civil partner of a Caymanian.

Clause 16 seeks to consult on amending section 40 of the principal Act to clarify that the rights of the holder of a Residency and Employment Rights Certificate who is the spouse or civil partner of a Caymanian or has obtained the Residency and Employment Rights Certificate as a result of marriage to or civil partnership with a holder of a Residency and Employment Rights Certificate may be revoked by the Board or the Director of WORC on a number of grounds. These grounds include where —

(a) the marriage or civil partnership with a Caymanian or the holder of a Residency and Employment Rights Certificate is dissolved or annulled within ten years of it taking place;

(b) the holder of the Residency and Employment Rights Certificate ceases to be legally and ordinarily resident in the Cayman Islands; or

(c) the holder of the Residency and Employment Rights Certificate and the spouse or civil partner are living apart under a decree of a competent court.

The clause also seeks to consult on amending section 40 of the principal Act to set out the steps to be taken by an affected person to apply for a Residency and Employment Rights Certificate where the Board or the Director of WORC exercises the discretion to revoke the original Residency and Employment Rights Certificate.

Furthermore, clause 16 seeks to consult on amending section 40 of the principal Act to clarify that where a person who is applying for a continuation of a Residency and Employment Rights Certificate on the basis that the person is or was the spouse of a Caymanian and that the person has a Caymanian child, the Caymanian child must be a child of both parties to the marriage or civil partnership with the Caymanian.

The clause also seeks to consult on amending section 40 of the principal Act to provide that where a person applies under section 40(2) for a continuation of the Residency and Employment Rights Certificate, the person shall provide the Board or the Director of WORC with proof —

(a) of whether the person meets the prescribed financial standing requirements to be able to support himself or herself, the Caymanian child, and any other approved dependants; and

(b) that the person is financially supporting and contributing positively to the life of the person's Caymanian child and approved dependants.

Clause 17 seeks to consult on amending section 42 of the principal Act to provide that an applicant for a Certificate of Permanent Residence for Persons of Independent Means must satisfy the Director of WORC that at the time that the application is made the applicant has invested in developed real estate in the Islands and the paid-up value of the investment as

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at the time of the application satisfies the prescribed sum that is to be invested for the purposes of the application.

The clause also seeks to consult on amending section 42 of the principal Act to provide that for the purposes of determining whether the value of the developed real estate satisfies the prescribed sum to be invested for a Certificate of Permanent Residence for Persons of Independent Means, the developed real estate shall be valued by a licensed surveyor.

Clause 18 seeks to consult on amending section 47 of the principal Act to provide for a requirement that the holder of a Certificate of Direct Investment issued under section 47(3) provides an annual declaration in respect of the holder and the holder's dependants.

Clause 19 seeks to consult on amending the principal Act to insert a proposed new section 49A which introduces a Certificate for Farmers. A Certificate for Farmers permits a person to work or continue to work with an employer at an agricultural enterprise named in the Certificate in the capacity of a farmer or in another capacity where the person is caring for a farm or cultivating land.

The proposed new section 49A provides that the employer or former employer of a person who meets certain criteria may apply to the Director of WORC or the relevant Board for the grant or renewal of a Certificate for Farmers in respect of that person.

Clause 20 seeks to consult on amending section 50 of the principal Act to provide for a requirement that the holder of a Residency Certificate (Substantial Business Presence) issued under section 50(3) provides an annual declaration in respect of the holder and the holder's dependants.

Clause 21 seeks to consult on amending section 51 of the principal Act to introduce additional grounds on which a person's permission to reside permanently in the Islands may be revoked by the Board or the Director of WORC, including where there are reasonable grounds for suspecting that a marriage or civil partnership is one of convenience or that the person is not financially supporting, or contributing positively to the life of, the person's Caymanian child.

Clause 22 seeks to consult on amending section 52A of the principal Act as a consequence of the proposed introduction of Certificates for Farmers to provide, among other things, that an employer or former employer who applies for a Certificate for Farmers shall provide the Board or the Director of WORC with a vaccination certificate or other specified health information relating to the vaccination status of that employee or former employee.

Clause 23 seeks to consult on amending the principal Act to insert after section 52B proposed new section 52C. The proposed new section 52C provides that for the purposes of sections 37(21), 38(4)(b), 40(2D)(b), 44(1), 47(9) and 50(8) of the principal Act, special circumstances shall be taken to mean instances where the child remains involuntarily either wholly or substantially dependent upon the holder as a result of a physical or mental disability.

Clause 24 seeks to consult on amending section 53(1) of the principal Act to provide that an exemption of any person from the provisions under Part 7 may be unconditional or subject to conditions as may be determined by the Cabinet.

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Clause 25 seeks to consult on amending section 58 of the principal Act to make it mandatory for prospective employers, unless exempted by the Cabinet, the Board or the Director, to advertise a vacancy to which an application for a work permit relates in a local newspaper or other prescribed media for a period of fourteen days before the submission of the application.

The clause also seeks to consult on amending section 58 of the principal Act to provide that among the matters that are to be taken into account in respect of an application for the grant or renewal of a work permit is whether the resources or the proposed salary of the worker, and where the worker's spouse or civil partner is employed within the Islands, the worker's spouse or civil partner, meet the prescribed financial standing requirements to be able to support himself or herself, or themselves, as applicable, and that person's dependants.

Clause 26 seeks to consult on amending the principal Act to repeal and substitute section 64. The proposed substituted section 64 provides that persons who are workers are not permitted to change their employer. The section further provides that where a person who is a worker terminates his or her employment, the person shall leave the Islands for at least one year before any other prospective employer is able to apply for a work permit in respect of the person.

Clause 27 seeks to consult on amending section 66 of the principal Act, among other things, to increase the term limits for workers from nine years to ten years, as a consequence of the increased period of time for which a person must show that he or she is legally and ordinarily resident before applying to reside permanently in the Islands.

Clause 28 seeks to consult on amending section 67 of the principal Act to empower the Director of WORC, after consultation with the Minister, to prescribe, by notice published in the Gazette, the fee for a work permit or temporary work permit in a case where an occupation for which a work permit or temporary work permit is being sought is not prescribed. The fee prescribed by the Director of WORC shall not exceed the highest annual work permit fee prescribed under section 72(2)(f).

Clause 29 seeks to consult on amending section 70 of the principal Act to provide that a marriage officer, a Registrar, a Civil Registrar or a civil partnership officer shall request prescribed information from the parties to an intended marriage or a marriage, or an intended civil partnership or a civil partnership for the purposes of determining whether there are reasonable grounds for suspicion that the marriage or civil partnership is one of convenience.

The clause also seeks to consult on amending section 70 of the principal Act to provide that the failure to comply with any such request shall be taken into account by the marriage officer, Registrar, Civil Registrar or civil partnership officer, unless there are exceptional circumstances that have caused the non-compliance.

Clause 30 seeks to consult on amending the principal Act to insert proposed new section 71A. The proposed new section empowers the Director of WORC to re-issue certificates and provide duplicates of any licence or permit granted under the Act on the application

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by the person to whom the original was issued or granted and on the payment of the applicable fees.

Clause 31 seeks to consult on amending section 72 of the principal Act to empower the Cabinet to make regulations to prescribe the information which may be requested in order to determine whether there are reasonable grounds for suspicion that a marriage or civil partnership is a marriage or civil partnership of convenience.

The clause also seeks to consult on amending section 72 of the principal Act to provide at subsection (2)(f) that regulations may prescribe the fees payable in respect of the reissue of a certificate or a document and the provision of any duplicate of a licence or permit. The clause provides further that regulations may prescribe the circumstances under which the fees may be refunded, waived or reduced.

Further, clause 31 seeks to consult on amending section 72 of the principal Act, to insert subsection (2A), to clarify that the power to make regulations under subsection (2) includes, among other things, the power to provide for such exceptions, limitations or conditions that the Cabinet considers necessary or expedient.

Clause 32 seeks to consult on amending the principal Act to insert after section 83 proposed new section 83A. The proposed new section 83A provides for various transitional matters as a consequence of the amendments proposed under the legislation.

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# IMMIGRATION (TRANSITION) DISCUSSION WHITE PAPER

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**CAYMAN ISLANDS**




# IMMIGRATION (TRANSITION) DISCUSSION WHITE PAPER

**A DISCUSSION WHITE PAPER TO CONSULT ON AMENDING THE IMMIGRATION (TRANSITION) ACT (2022 REVISION) TO GIVE THE CAYMANIAN STATUS AND PERMANENT RESIDENCY BOARD AND THE DIRECTOR OF WORC THE DISCRETION TO ALLOW A RESIDENCY AND EMPLOYMENT RIGHTS CERTIFICATE TO REMAIN IN FORCE WHERE THE HOLDER'S MARRIAGE OR CIVIL PARTNERSHIP IS, AMONG OTHER THINGS, DISSOLVED; TO MAKE EXEMPTIONS PROVIDED FOR UNDER SECTION 53(1)(b) EITHER UNCONDITIONAL OR SUBJECT TO SUCH CONDITIONS AS MAY BE DETERMINED BY CABINET; TO INCREASE TERM LIMITS FOR WORKERS; TO INTRODUCE CERTIFICATES FOR FARMERS; TO PROVIDE FOR THE MAKING OF REGULATIONS TO DEAL WITH THE REFUNDS OF FEES IN CERTAIN CIRCUMSTANCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

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## Amendment of section 1 of the Immigration (Transition) Act (2022 Revision) - short title

**1**. The *Immigration (Transition) Act (2022 Revision)*, in this Act referred to as the "principal Act", is amended in section 1 by deleting the words "Immigration (Transition)" and substituting the words "Caymanian Protection".

### Amendment of section 2 - interpretation

**2.** The principal Act is amended in section 2 as follows —

(a) by deleting the definitions of the words "**by entitlement**" and "**special circumstances**"; and

(b) by inserting in the appropriate alphabetical sequence, the following definitions —

" "**by dependency**", in relation to the right to be Caymanian under section 26(1)(d), means entitlement by a person by virtue only of the person being, in the determination of the Director of WORC —

(a) the child of a Caymanian by grant;

(b) under the age of eighteen years; and

(c) legally and ordinarily resident in the Islands for a period of not less than one year;

"**by descent**", in relation to the right to be Caymanian under section 28(2), means a person who —

(a) has attained the age of eighteen years;

(b) satisfies the Caymanian Status and Permanent Residency Board that that person is the child or grandchild of a Caymanian born in the Islands; and

(c) is not otherwise entitled to the right to be Caymanian;

"**Caymanian by grant**" means any of the following persons who are granted the right to be Caymanian —

(a) a person who is a British Overseas Territories Citizen by reason of a certificate of naturalisation or registration issued under the *British Nationality Act, 1981* or any Act preceding, amending or replacing that Act;

(b) a person who is a British Overseas Territories Citizen by virtue of the person's connection with another overseas territory;

(c) a person who has been married to, or been in a civil partnership with, a Caymanian, pursuant to section 28(5);

(d) the surviving spouse or civil partner of a Caymanian, pursuant to section 28(7); or

(e) a person who —

(i) has attained the age of seventeen years;

(ii) is Caymanian by dependency, which status —

(A) will expire when that person attains the age of eighteen years; or

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(B) has expired upon that person's having attained the age of eighteen years; and

(iii) 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 for the grant of the right to be Caymanian;

"**Customs and Border Control Service**" has the meaning assigned by section 2 of the *Customs and Border Control Act (2024 Revision)*;

"**Department of Children and Family Services**" means the department of Government having responsibility for the welfare of children;

"**Department of Financial Assistance**" means the department of Government referred to in section 3 of the *Financial Assistance Act, 2022*;

"**developed real estate**" means real estate that has undergone a physical improvement to land in the nature of buildings, structures or other improvements that enhance the value of the land for industrial, agricultural or residential purposes, and in the case of real estate for industrial or residential purposes, a certificate of occupancy has been issued;

"**licensed surveyor**" means a surveyor licensed under the *Land Surveyors Act (1996 Revision)*;

"**Royal Cayman Islands Police Service**" means the Royal Cayman Islands Police Service referred to in section 3 of the *Police Act (2021 Revision)*; and

"**working day**" means a day of the week, excluding Saturdays, Sundays and public general holidays;".

### Insertion of section 8A - sharing of information with WORC or a Board

**3**. The principal Act is amended by inserting after section 8 the following section —

"**Sharing of information with WORC or a Board**

**8A.**(1) The entities referred to in subsection (2) may, upon request, supply the Director of WORC, or a relevant Board, with information that is necessary for the exercise of the functions of the Director of WORC or the relevant Board in —

(a) processing applications for work permits, grants for Caymanian status, permanent residence and any other category of residence;

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(b) exercising functions relating to the revocation of work permits, grants of Caymanian status, permanent residence and any other category of residence; and

(c) promoting and facilitating the employment of Caymanians and other prescribed persons in the Islands, through the use of various facilities and services.

(2) For the purposes of subsection (1), the entities are as follows —

(a) the Royal Cayman Islands Police Service;

(b) the Customs and Border Control Service;

(c) the Director of Public Prosecutions;

(d) the Department of Community Rehabilitation;

(e) the Department of Children and Family Services;

(f) the Department of Financial Assistance; and

(g) the department of Government responsible for the administrative services relating to the delivery of the scholarships programme.

(3) This section does not affect any other power, duty or obligation conferred or imposed on an entity referred to in subsection (2) to provide information to the Director of WORC or a relevant Board.".

### Amendment of section 11 - Cayman Brac and Little Cayman Immigration Board

**4**. The principal Act is amended in section 11(6)(b) by inserting after the word "Caregivers" the words "and Farmers".

### Amendment of section 13 - functions of Boards; Head of Work Permits, Cayman Status and Permanent Residence

**5**. The principal Act is amended in section 13(3)(a)(ii) by inserting after the word "Caregivers" the words "and Farmers".

### Amendment of section 20 - appeals from decisions of an officer

**6**. The principal Act is amended in section 20(3) by deleting the words "is able to support themselves" and substituting the words "meets the prescribed financial standing requirements to be able to support himself or herself".

### Amendment of section 21 - appeals from decisions of Boards and Director of WORC

**7**. The principal Act is amended in section 21(1) by deleting the words "under section 37, 49 or 56(5)" and substituting the words "under section 37, 40, 49, 49A, 51(1)(lb), 51(lc) or 56(5),".

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### Amendment of section 26 - categories of Caymanians

**8**. The principal Act is amended in section 26 as follows —

(a) by repealing subsection (1) and substituting the following subsection —

"(1) A person shall, for the purposes of this Act, be deemed to possess the right to be Caymanian if —

(a) the person is Caymanian at the 1st January, 2004;

(b) the person is Native Caymanian as defined in section 27;

(c) the person is Caymanian by grant under section 28;

(d) the person has obtained the right by dependency under section 28; or

(e) the Cabinet, acting on the recommendation of the Caymanian Status and Permanent Residency Board, grants such right to the person and that grant is subsequently ratified by the Cayman Islands Parliament; save that the Cabinet shall not make more than four such grants in any calendar year,

and the person shall continue to possess and enjoy the right to be Caymanian unless and until the person loses it under section 33.";

(b) in subsection (2), by deleting the words "subsection (1)" and substituting the words "subsection (1)(a), (c), (d) or (e)"; and

(c) by inserting after subsection (2) the following subsection —

"(2A)A person who believes that that person possesses the right to be Caymanian under subsection (1)(b) may —

(a) apply in the prescribed form to the Director of WORC for the formal confirmation of that right in that person's passport; or

(b) be formally confirmed by the Director of WORC in the person's passport as having that right by virtue of the person's connection with an applicant under paragraph (a),

and within fourteen days after receiving the application, the Director of WORC shall either provide the confirmation or give written reasons for the refusal to do so.".

### Repeal and substitution of section 27 - Caymanian as of right

**9**. The principal Act is amended by repealing section 27 and substituting the following section —

"**Meaning of "Native Caymanian"**

**27.** In this Part, "**Native Caymanian**" means a person —

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(a) born on or after the 1st January, 2004 whether in or outside the Islands, at the date of whose birth at least one of that person's 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 that person's parents was Caymanian otherwise than by descent;

(c) acquiring the status of Caymanian under section 21 of the repealed *Immigration Act (2015 Revision)* or under any earlier law conferring the same or similar rights; or

(d) who is Caymanian by descent.".

### Amendment of section 28 - acquisition of the right to be Caymanian by grant of the Board

**10**. The principal Act is amended in section 28 as follows —

(a) in subsection (3) as follows —

(i) by deleting the words "fifteen years" and substituting the words "twenty years"; and

(ii) by deleting the words "five years" and substituting the words "ten years";

(b) in subsection (4), by deleting the words "fifteen years" and substituting the words "twenty years";

(c) in subsection (8), by repealing paragraph (d) and substituting the following paragraph —

"(d) whether the applicant meets the prescribed financial standing requirements to be able to support himself or herself and any dependants; and";

(d) in subsection (10)(b), by deleting the words "has Caymanian status which" and substituting the words "is Caymanian by dependency, which status"; and

(e) in subsection (13), by deleting the words "by entitlement" and substituting the words "by dependency".

### Amendment of section 30 - matters for Board's consideration

**11**. The principal Act is amended in section 30(b) and (c) by deleting the words "by entitlement" and substituting the words "by dependency".

### Amendment of section 33 - revocation of right to be Caymanian

**12**. The principal Act is amended in section 33 as follows —

(a) in subsection (1) as follows —

(i) by repealing paragraph (b); and

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(ii) by repealing paragraphs (c) and (ca) and substituting the following paragraphs —

"(c) where there are reasonable grounds for suspecting that the marriage of the holder, being the spouse of a Caymanian, is a marriage of convenience and which have led the Board to conclude that the marriage is a marriage of convenience;

(ca) where there are reasonable grounds for suspecting that the civil partnership of the holder, being the civil partner of a Caymanian, is a civil partnership of convenience and which have led the Board to conclude that the civil partnership is a civil partnership of convenience; or"; and

(b) by repealing subsection (2) and substituting the following subsection —

"(2) The holder of the right to be Caymanian by dependency under this Act or under any analogous provision in an earlier Act —

(a) may lose that right where —

(i) the person has not been legally and ordinarily resident in the Islands for a period of seven years immediately before reaching the age of eighteen years; or

(ii) after reaching the age of eighteen years, the person resides outside the Islands for a period of five years, save for absences abroad for purposes of education or medical treatment; and

(b) shall notify the Director of WORC forthwith of the relevant circumstances involving that person's legal and ordinary residence in the Islands or absence from the Islands, as applicable, and wilful failure to do so is an offence.".

### Amendment of section 36 - categories of permanent residence

**13**. The principal Act is amended in section 36 as follows —

(a) in subsection (1)(a) by deleting the words "eight years" and substituting the words "nine years"; and

(b) by inserting after subsection (2) the following subsection —

"(2A) In accordance with this Act and the regulations, a person shall pay the relevant prescribed fees in respect of the person, the person's spouse or civil partner and the person's dependants for the grant, and the continued approval, of the right to reside permanently in the Islands.".

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### Amendment of section 37 - persons legally and ordinarily resident in the Islands for at least eight years

**14**. The principal Act is amended in section 37 as follows —

(a) in the section heading, by deleting the words "eight years" and substituting the words "nine years";

(b) in subsection (1), by deleting the words "eight years" and substituting the words "nine years";

(c) by repealing subsection (16) and substituting the following subsections —

"(16) The spouse or civil partner of a permanent resident may apply to the Board or the Director of WORC for a Residency and Employment Rights Certificate, which if granted —

(a) will be for a period of ten years, subject to the same conditions and entitlements as specified in subsection (5); and

(b) may, upon application, accompanied by the prescribed fee, be renewed indefinitely at the discretion of the Director of WORC or the Board.

(16A)Where the Director of WORC or the Board renews the Residency and Employment Rights Certificate indefinitely under subsection (16)(b), the spouse or civil partner of a permanent resident in respect of whom the Residency and Employment Rights Certificate is renewed indefinitely shall continue to comply with any relevant requirements as the holder of a Residency and Employment Rights Certificate, including, where applicable, the payment of prescribed fees.";

(d) by repealing subsections (18) and (20);

(e) in subsection (21), by deleting the words "subsection (5) or (18)" and substituting the words "subsection (5) or section 40(1A)"; and

(f) in subsection (23), by deleting the words "this section or section 38" and substituting the words "this section, section 38 or section 40(1A)".

### Amendment of section 38 - Residency and Employment Rights Certificate for spouse or civil partner of a Caymanian

**15**. The principal Act is amended in section 38 as follows —

(a) by repealing subsection (1) and substituting the following subsections —

"(1) Subject to section 40(3), the spouse or civil partner of a Caymanian may apply to the Director of WORC or the Caymanian Status and Permanent Residency Board for permission to reside in the Islands and —

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(a) if the application is successful the Director of WORC or the Caymanian Status and Permanent Residency Board, as the case may be, shall grant to the applicant a Residency and Employment Rights Certificate which will be for a period of seven years; and

(b) the Residency and Employment Rights Certificate may, upon application, accompanied by the prescribed fee, be renewed indefinitely at the discretion of the Director of WORC or the Caymanian Status and Permanent Residency Board.

(1A) Where the Director of WORC or the Caymanian Status and Permanent Residency Board renews the Residency and Employment Rights Certificate indefinitely under subsection (1)(b), the spouse or civil partner of a Caymanian in respect of whom the Residency and Employment Rights Certificate is renewed indefinitely shall continue to comply with any relevant requirements as the holder of a Residency and Employment Rights Certificate, including, where applicable, the payment of prescribed fees.";

(b) in subsection (3)(f), by deleting the words "have sufficient financial means" and substituting the words "meet the prescribed financial standing requirements to be able";

(c) by repealing subsection (6) and substituting the following subsections —

"(6) Subject to subsection (6B), the non-Caymanian spouse or civil partner of a Caymanian shall apply for a Residency and Employment Rights Certificate under this section in order that the spouse or civil partner may reside or be gainfully employed in the Islands.

(6A) The non-Caymanian spouse or civil partner of a Caymanian shall not be entitled to apply for, or to be granted, a work permit or the renewal of a work permit but where a work permit is in effect on the date of the marriage or civil partnership, the spouse or civil partner may continue to work under the terms and conditions of the work permit until its expiration.

(6B) A person who was granted permanent residence under section 37 prior to entering into marriage to or civil partnership with a Caymanian may apply for a Residency and Employment Rights Certificate under this section as the spouse or civil partner of a Caymanian.

(6C) Subject to subsection (6D), on the death of the Caymanian spouse or civil partner of the holder of a Residency and Employment Rights Certificate granted under subsection (1), the right of the surviving spouse or civil partner to reside in the Islands may be revoked at the discretion of the Board or the Director of WORC where the marriage

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or civil partnership subsisted for less than ten years at the time of the death of the Caymanian spouse or civil partner.

(6D) The surviving spouse or civil partner under subsection (6C) may apply, within a period of three months after the revocation, for the grant of a Residency and Employment Rights Certificate where the surviving spouse or civil partner satisfies the requirements for such a certificate under section 37."; and

(d) in subsections (7) and (8), by deleting the words "Notwithstanding subsection (6)" and substituting the words "Notwithstanding subsections (6) and (6A)" in each instance.

**Amendment of section 40 - loss of Residency and Employment Rights Certificate**

**16**. The principal Act is amended in section 40 as follows —

(a) by repealing subsection (1) and substituting the following subsections —

"(1) Subject to subsections (1A) and (2), the rights of the holder of a Residency and Employment Rights Certificate who —

(a) is the spouse or civil partner of a Caymanian; or

(b) has obtained the Residency and Employment Rights Certificate as a result of marriage to or civil partnership with the holder of a Residency and Employment Rights Certificate under section 37(16) or any other earlier analogous provision,

may be revoked at the discretion of the Board or the Director of WORC if —

(i) the first-mentioned holder falls within any of the provisions of section 51;

(ii) the first-mentioned holder's spouse or civil partner ceases to be a Caymanian or to be a Residency and Employment Rights Certificate holder;

(iii) within ten years of the marriage or the civil partnership, the marriage or civil partnership is dissolved or annulled;

(iv) the first-mentioned holder ceases to be legally and ordinarily resident in the Islands; or

(v) the first-mentioned holder and the spouse or civil partner are living apart —

(A) under a decree of a competent court;

(B) under a deed of separation; or

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(C) in circumstances where, in the opinion of the Board or the Director of WORC, the marriage or civil partnership has irretrievably broken down.

(1A) A person under subsection (1)(iii) or (1)(v) may apply for the grant of a Residency and Employment Rights Certificate in accordance with section 37 within a period of three months after the revocation.

(1B) Where an application for a Residency and Employment Rights Certificate has been made under subsection (1A) within the period of three months after the revocation, the applicant's right to reside in the Islands shall continue on the same terms and conditions until the Board or the Director of WORC determines the application or the Immigration Appeals Tribunal determines any subsequent appeal.

(1C) Where a Residency and Employment Rights Certificate is granted in accordance with this section, the prescribed fees shall only be payable by the holder of the Residency and Employment Rights Certificate where the holder re-marries or re-enters into a civil partnership.

(1D) The holder of a Residency and Employment Rights Certificate issued under this section shall provide an annual declaration containing prescribed particulars in respect of the holder and the holder's dependants on the anniversary of the date of issue of the Residency and Employment Rights Certificate or the date that the Director may specify.

(1E) The failure of the holder of a Residency and Employment Rights Certificate to provide the declaration under subsection (1D) is an offence and a ground for revocation of the Residency and Employment Rights Certificate.";

(b) in subsection (2) as follows —

(i) by deleting the chapeau and substituting the following chapeau —

"(2) A person whose Residency and Employment Rights Certificate may be revoked under subsection (1) and who —"; and

(ii) in paragraph (b), by inserting after the words "Caymanian child" the words "who is a child of both parties to the marriage or civil partnership referred to in paragraph (a)";

(c) by inserting after subsection (2) the following subsections —

"(2A) Where a person applies under subsection (2) ("the applicant") for a continuation of the Residency and Employment Rights Certificate, the applicant shall provide the Board or the Director of WORC with proof —

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(a) of whether the applicant meets the prescribed financial standing requirements to be able to support himself or herself, the Caymanian child, and any other dependants approved and added by the Board or the Director of WORC ("approved dependants"); and

(b) that the applicant is financially supporting and contributing positively to the life of the person's Caymanian child and approved dependants.

(2B) Where the Board or the Director of WORC is unable to obtain sufficient proof referred to in subsection (2A)(b) from the applicant, the Board or the Director of WORC shall request that the Department of Children and Family Services or the Department of Community Rehabilitation assess the applicant and prepare a report on whether the applicant is financially supporting, and contributing positively to the life of, the applicant's Caymanian child and approved dependants.

(2C) Where the Board or the Director of WORC is not satisfied that the applicant is —

(a) financially supporting the applicant's Caymanian child and approved dependants; or

(b) contributing positively to the life of the applicant's Caymanian child and approved dependants,

the Board or the Director of WORC shall notify the applicant in writing that the application is under review and of the additional matters specified in subsection (2D).

(2D) For the purposes of subsection (2C), the Board or the Director of WORC shall notify the applicant of the following additional matters —

(a) that the applicant is being granted permission to remain and work in the Islands in any occupation without the need to possess a work permit for a period of six months from the date of the written notice under subsection (2C);

(b) that the applicant is entitled to have the applicant's approved dependants reside in the Islands for the period referred to in paragraph (a); and

(c) that during the period referred to in paragraph (a), the Board or the Director of WORC may request any information or further particulars from the applicant as are reasonable for the Board or the Director of WORC to determine the matter.

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(2E) Where, pursuant to any information or further particulars provided under subsection (2D)(c), the Board or the Director of WORC is not satisfied that the person —

(a) has financially supported or contributed positively to the life of the person's Caymanian child and approved dependants; or

(b) is able to continue to financially support or contribute positively to the life of the person's Caymanian child and approved dependants,

the Board or the Director of WORC shall refuse the application.

(2F) Where a person who applies under subsection (2) for a continuation of the Residency and Employment Rights Certificate remarries or enters into a subsequent civil partnership with a non-Caymanian, the spouse or civil partner from the subsequent marriage or civil partnership shall not be added as a dependant on the continued Residency and Employment Rights Certificate."; and

(d) in subsection (3)(a), by repealing subparagraph (iv) and substituting the following subparagraph —

"(iv) whether the applicant meets the prescribed financial standing requirements to be able to support himself or herself and any dependants; and".

### Amendment of section 42 - Certificate of Permanent Residence for Persons of Independent Means

**17**. The principal Act is amended in section 42 as follows —

(a) in subsection (2), by repealing paragraph (a) and substituting the following paragraph —

"(a) at the time that the application is made the applicant has invested in developed real estate in the Islands and the paid-up value of the investment as at the time of the application satisfies the prescribed sum that is to be invested in developed real estate in the Islands for the purposes of this section;" and

(b) by inserting after subsection (3) the following subsection —

"(3A) For the purposes of determining whether the value of the developed real estate satisfies the prescribed sum to be invested for a Certificate of Permanent Residence for Persons of Independent Means, the developed real estate shall be valued by a licensed surveyor.".

### Amendment of section 47 - Certificate of Direct Investment

**18**. The principal Act is amended in section 47 by inserting after subsection (11) the following subsections —

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"(12)The holder of a Certificate issued under subsection (3) shall provide an annual declaration containing prescribed particulars in respect of the holder and the holder's dependants on the anniversary of the date of issue of the Certificate of Direct Investment or the date that the Director may specify.

(13) The failure by the holder of a Certificate of Direct Investment to provide the declaration under subsection (12) is an offence and a ground for revocation of the Certificate of Direct Investment.".

### Insertion of section 49A - Certificate for Farmers

**19**. The principal Act is amended by inserting after section 49 the following section —

"**Certificate for Farmers**

**49A.**(1) A Certificate for Farmers may be issued in accordance with this section to the employer of a person specified in subsection (2) to permit the person to work or to continue to work with the employer at an agricultural enterprise named in the Certificate in the capacity of a farmer or in another capacity where the person is caring for a farm or cultivating land.

(2) A person is eligible to be employed under a Certificate for Farmers if —

(a) in the case where the person is or was the holder of a work permit, either —

(i) the person holds a final work permit; or

(ii) the person held a final work permit that has expired and the person has departed the Islands, and an application for employment under a Certificate for Farmers is made within one year from the date of that departure;

(b) in any other case, either —

(i) the person holds permission granted under section 66(4); or

(ii) the person held permission granted under section 66(4) that has expired and an application for employment under a Certificate for Farmers is made if the person is otherwise legally resident in the Islands or remains in the Islands on the basis of permission granted under the *Customs and Border Control Act (2024 Revision)*;

(c) in relation to paragraphs (a) and (b), the final work permit or the permission is or was for employment with an agricultural enterprise that is registered with the Department of Agriculture as a commercial agricultural producer; and

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(d) the person is in good health and possesses health insurance coverage.

(3) The employer or former employer of a person referred to in subsection (2) may apply to —

(a) the Work Permit Board or the Director of WORC; or

(b) where the employment relates to employment in Cayman Brac or Little Cayman, to the Cayman Brac and Little Cayman Immigration Board,

for the grant or renewal of a Certificate for Farmers in respect of that person.

(4) Where, having received an application under subsection (3), the Work Permit Board or the Director of WORC is satisfied that the criteria in subsection (2) are met, the Work Permit Board or the Director of WORC, having regard to the criteria in section 58(3) and upon payment of the prescribed fee, may issue a Certificate for Farmers, valid for five years from the date of issuance of the Certificate, to take effect —

(a) upon the expiry of the employee's final work permit or permission granted under section 66(4); or

(b) in the event that the employee's final work permit or permission granted under section 66(4) has expired, upon the date of the decision of the Board or the Director of WORC,

and the Certificate shall be renewable for one further period of five years, on application to the Board or the Director of WORC and upon payment of the prescribed fee, if the criteria in subsection (2) remain satisfied.

(5) Upon the issue of a Certificate for Farmers, the name of the agricultural enterprise that is registered with the Department of Agriculture as a commercial agricultural producer shall be inscribed on the Certificate.

(6) Where, during the currency of a final work permit or permission granted under section 66(4), an application had been made to the Work Permit Board or to the Director of WORC —

(a) for the grant of a Certificate for Farmers where the applicant is eligible to make such an application; or

(b) for the renewal of a Certificate for Farmers prior to the expiry of the current Certificate,

if the application —

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(i) has not yet been determined by the Work Permit Board or the Director of WORC; or

(ii) has been refused by the Work Permit Board or the Director of WORC and that refusal has been appealed under section 21 to the Immigration Appeals Tribunal within the prescribed time for doing so,

notwithstanding the fact that the final work permit, the permission granted under section 66(4) or the Certificate for Farmers has expired, it shall not be an offence for the employee to whom the application relates to continue to be engaged in gainful occupation on the same terms and conditions of the final work permit, the permission granted under section 66(4) or the Certificate for Farmers while awaiting a notification of the determination of the application or appeal.

(7) A Certificate for Farmers shall not confer on the employee's spouse or civil partner or dependants any employment rights in the Islands.

(8) Where during the currency of a Certificate for Farmers, the employer who is the holder of the Certificate dies or is no longer capable of holding the Certificate, the Certificate may be transferred at the discretion of the Work Permit Board or the Director of WORC to another competent holder but the new holder of the Certificate shall continue to care for a farm or cultivate land with the agricultural enterprise named in the Certificate.

(9) An application for the renewal of a Certificate for Farmers, where the applicant was eligible to make the application, may be refused and a Certificate may be revoked by the Work Permit Board or the Director of WORC if —

(a) the employee named in the Certificate ceases to be employed by the employer named in the Certificate;

(b) the person named in the Certificate as being the employer dies or becomes in the opinion of the Work Permit Board or the Director of WORC no longer capable of holding the Certificate;

(c) the agricultural enterprise named in the Certificate is dissolved or ceases to operate; or

(d) in the opinion of the Work Permit Board or the Director of WORC, any of the matters referred to in section 51(1)(a), (c), (d), (e), (f), (g), (h), (k) or (n) applies to the employee named in the Certificate.

(10) Where the employment arrangement between the employee and the employer who is the Certificate holder ceases or the Certificate

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holder or the agricultural enterprise named in the Certificate is dissolved or ceases to operate, the employee named in the Certificate or the employer who is the Certificate holder shall inform the Board or the Director of WORC within thirty days of the cessation or dissolution, and failure to do so is an offence for which both the Certificate holder and the employee named in the Certificate are liable.

(11) Unless the employee named in the Certificate for Farmers is allowed to remain under another provision of this Act, the employee shall leave the Islands where —

(a) a Certificate for Farmers expires and no application is made for its renewal;

(b) an application for renewal of a Certificate for Farmers is not permitted to be made; or

(c) an application for renewal of a Certificate for Farmers is made but is refused and no appeal has been made,

and neither the Board nor the Director of WORC shall grant or renew a work permit for the employee for at least one year after the employee has left the Islands.".

**Amendment of section 50 - Residency Certificate (Substantial Business Presence)**

**20**. The principal Act is amended in section 50 by repealing subsection (10) and substituting the following subsections —

"(10) When paying the prescribed annual fee the holder shall also submit a declaration signed by the holder confirming —

(a) that the holder's permission to operate or work in the business has not been lost as a result of the revocation or non-renewal of a required licence;

(b) that the holder was physically resident in the Islands for a minimum of ninety days in aggregate in the preceding calendar year; and

(c) any other particulars as may be prescribed in respect of the holder and the holder's dependants.

(10A) The failure of the holder of a Residency Certificate (Substantial Business Presence) issued under subsection (3) to provide the declaration under subsection (10) is an offence and a ground for revocation of the Residency Certificate (Substantial Business Presence).".

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### Amendment of section 51 - general provisions relating to loss of permanent residency

**21**. The principal Act is amended in section 51(1) as follows —

(a) by repealing paragraph (f) and substituting the following paragraph —

"(f) the person is suffering from mental impairment or a serious mental illness as defined in the *Mental Health Act (2023 Revision)* that makes that person's continued residence in the Islands dangerous to the community;"; and

(b) by inserting after paragraph (l) the following paragraphs —

"(la) either the Board or the Director of WORC is of the opinion that the person is not financially supporting or contributing positively to the life of the person's Caymanian child who was referenced in the application for permanent residence for the purposes of demonstrating that the person possesses close Caymanian connections;

(lb) there are reasonable grounds for suspecting that the marriage of the holder, being the spouse of a Caymanian, is a marriage of convenience and which have led the Board or the Director of WORC to conclude that the marriage is a marriage of convenience;

(lc) there are reasonable grounds for suspecting that the civil partnership of the holder, being the civil partner of a Caymanian, is a civil partnership of convenience and which have led the Board or the Director of WORC to conclude that the civil partnership is a civil partnership of convenience;".

### Amendment of section 52A - mandatory vaccinations for persons specified under Part 6

**22**. The principal Act is amended in section 52A(5) by inserting after the words "under section 49 for a Certificate for Specialist Caregivers" the words "or under section 49A for a Certificate for Farmers".

### Insertion of section 52C - references to "special circumstances" in certain sections

**23**. The principal Act is amended by inserting after section 52B the following section —

"**References to "special circumstances" in certain sections**

**52C.** For the purposes of sections 37(21), 38(4)(b), 40(2D)(b), 44(1), 47(9) and 50(8), special circumstances shall be taken to mean instances where the child remains involuntarily either wholly or substantially dependent upon the holder as a result of a physical or mental disability.".

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### Amendment of section 53 - persons exempted

**24**. The principal Act is amended in section 53(1)(b), by deleting the word "prescribed" and substituting the words "determined by the Cabinet".

### Amendment of section 58 - consideration of application for work permit by Board etc

**25**. The principal Act is amended in section 58 as follows —

(a) in subsection (2), by repealing paragraph (b) and substituting the following paragraph —

"(b) the prospective employer, unless exempted by the Cabinet, the Board or the Director, has for fourteen days before the submission of the application —

(i) registered the vacancy to which the application relates in an electronic portal established and managed by WORC; and

(ii) advertised the vacancy to which the application relates in a local newspaper or other prescribed media,

in order to ascertain the availability of any one or more of the following in the order in which they are listed —

(A) a Caymanian;

(B) the holder of a Residency and Employment Rights Certificate issued under section 37(5) or (16) or section 38; and

(C) a person legally and ordinarily resident in the Islands who is qualified and willing to fill the position; and";

(b) by repealing subsection (2B); and

(c) in subsection (3), by repealing paragraph (d) and substituting the following paragraph —

"(d) whether the resources or the proposed salary of —

(i) the worker; and

(ii) where the worker's spouse or civil partner is employed within the Islands, the worker's spouse or civil partner,

meet the prescribed financial standing requirements to be able to support himself or herself, or themselves, as applicable, and that person's dependants;".

### Repeal and substitution of section 64 - change of employer

**26**. The principal Act is amended by repealing section 64 and substituting the following section —

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"**Prohibition on changing employer**

**64.** (1) A person who is a worker shall not change the person's employer.

(2) Where a person who is a worker terminates his or her employment, the person shall leave the Islands for a period of not less than one year before any other prospective employer is able to apply for a work permit in respect of the person.".

### Amendment of section 66 - term limits

**27**. The principal Act is amended in section 66 as follows —

(a) in subsection (1), by deleting the words "nine years" and substituting the words "ten years";

(b) in subsection (10), by repealing paragraphs (b) and (c) and substituting the following paragraphs —

"(b) in respect of whose marriage the Board or the Director of WORC is of the opinion that there are no reasonable grounds for suspecting that the marriage is a marriage of convenience;

(c) in respect of whose civil partnership the Board or the Director of WORC is of the opinion that there are no reasonable grounds for suspecting that the civil partnership is a civil partnership of convenience;"; and

(c) in subsection (13), by deleting the words "subsection (10)(d)" and substituting the words "subsection (10)(e)".

### Amendment of section 67 - work permit fees

**28**. The principal Act is amended in section 67 by inserting after subsection (2) the following subsections —

"(2A) Notwithstanding section 72(2)(f), the Director, after consultation with the Minister, may prescribe by notice the fee for a work permit or temporary work permit in a case where an occupation for which a work permit or temporary work permit is being sought is not prescribed.

(2B) A fee prescribed under subsection (2A) shall not exceed the highest annual work permit fee prescribed under section 72(2)(f).

(2C) The Director shall cause a notice specified under subsection (2A) to be published in the *Gazette*.".

### Amendment of section 70 - marriages and civil partnerships of convenience

**29**. The principal Act is amended in section 70 by inserting after subsection (3) the following subsections —

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"(4) For the purposes of determining whether there are reasonable grounds for suspicion under subsection (2) or (3), the marriage officer, Registrar, Civil Registrar or civil partnership officer —

(a) shall request the prescribed information from the parties to the intended marriage or the marriage, or the intended civil partnership or the civil partnership; and

(b) for the purposes of confirming the information provided by the parties, may request relevant documentary evidence,

and the failure to comply with any such request shall be taken into account by the marriage officer, Registrar, Civil Registrar or civil partnership officer, unless there are exceptional circumstances that have caused the non-compliance.

(5) The power to require the production of a document under subsection (4)(b) shall be construed as including a power to take copies of the document and to retain the document for a reasonable time for the purpose for which it was requested.".

### Insertion of section 71A - reissue of documents and provision of duplicates

**30**. The principal Act is amended by inserting after section 71 the following section —

"**Reissue of documents and provision of duplicates**

**71A.** The Director of WORC may re-issue any certificate or document and provide a duplicate of any licence or permit granted under this Act —

(a) on the application, in such form and manner as may be prescribed, by the person to whom the original was issued or granted; and

(b) on the payment of any fees as may be prescribed.".

### Amendment of section 72 - regulations

**31**. The principal Act is amended in section 72 as follows —

(a) in subsection (2) as follows —

(i) by inserting after paragraph (e) the following paragraph —

"(ea) prescribe the information to be requested under section 70(4);"; and

(ii) by repealing paragraph (f) and substituting the following paragraphs —

"(f) prescribe the fees payable under this Act by a person or category of persons in respect of —

(i) an application, licence or permit granted;

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(ii) a certificate or other document issued; or

(iii) a reissue of any certificate or document or any duplicate of any licence or permit referred to under subparagraphs (i) and (ii),

and provide for the circumstances under which the fees may be refunded, waived or reduced;

(fa) prescribe the time or the intervals at which the fees under paragraph (f) are payable;"; and

(b) by inserting after subsection (2) the following subsection —

"(2A)The power of the Cabinet to make regulations under subsection (2) includes the power to —

(a) make different provision in relation to different categories of persons; and

(b) provide for such exceptions, limitations or conditions and make such consequential or transitional provisions as the Cabinet considers necessary or expedient.".

### Insertion of section 83A - further transitional matters

**32**. The principal Act is amended by inserting after section 83 the following section —

"**Further transitional matters**

**83A.**(1) Where, prior to the commencement of the *Immigration (Transition) (Amendment) Act, 2025* —

(a) an application under subsection (2) was made under the principal Act and the application has not been determined on the date of commencement of the *Immigration (Transition) (Amendment) Act, 2025*; or

(b) an appeal or an application for judicial review was made against a decision in respect of an application under subsection (2) and the appeal has not been determined on the date of commencement of the *Immigration (Transition) (Amendment) Act, 2025*,

the application, the appeal or the application for judicial review, as applicable, shall be determined as if the *Immigration (Transition) (Amendment) Act, 2025* had not come into force.

(2) For the purposes of subsection (1), the applications are as follows —

(a) an application under section 28 of the principal Act for the grant of the right to be Caymanian;

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(b) an application under section 37 of the principal Act for the right to reside permanently in the Islands made by a person who has been legally and ordinarily resident in the Islands for a minimum period of eight years;

(c) an application under section 40 of the principal Act for the continuation of a Residency and Employment Rights Certificate;

(d) an application under section 42 of the principal Act for a Certificate of Permanent Residence for Persons of Independent Means; and

(e) an application for naturalisation or registration pursuant to the *British Nationality Act, 1981*.

(3) Section 58(2) of the principal Act as amended by the *Immigration (Transition) (Amendment) Act, 2025* shall not apply to an application under section 56 by a prospective employer where the application is made prior to the date of commencement of the *Immigration (Transition) (Amendment) Act, 2025*; and the application shall be determined as if the *Immigration (Transition) (Amendment) Act, 2025* had not come into force.

(4) For the purposes of this section, "**the principal Act**" means the *Immigration (Transition) Act (2022 Revision)* prior to being amended by the *Immigration (Transition) (Amendment) Act, 2025*.".

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