

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE IMMIGRATION LAW (2010
REVISION) TO VARY THE TERM LIMIT PROVISIONS; TO CREATE A
NEW CATEGORY OF EMPLOYMENT AUTHORISATION; AND TO MAKE
PROVISION FOR INCIDENTAL AND CONNECTED PURPOSES**

THE IMMIGRATION (AMENDMENT) (No. 3) BILL, 2011

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend the Immigration Law (2010 Revision) to empower the Boards and the Chief Immigration Officer to grant Term Limit Exemption Permits to certain workers who are approaching the end of their term limit or whose term limit has already expired.

Clause 1 recites the short title.

Clause 2 defines certain terms for the purposes of the principal Law.

Clause 3 amends section 30 of the principal Law to add a new category of person who is legally and ordinarily resident in the Islands but who is prohibited from applying for permanent residence while he is the holder of a current Term Limit Exemption Permit.

Clause 4 amends section 42 of the principal Law to make insertions into subsections (4) and (5) in order to harmonise the procedures for work permit and Term Limit Exemption Permit applications.

Clause 5 amends section 44 to require the Board or the Chief Immigration Officer, as the case may be, to take account of the extent to which the employer has contributed to the national training initiative as a prerequisite for any grant or renewal under this section.

Clause 6 empowers the Board and the Chief Immigration Officer to grant a work permit for up to ten years to persons employed in a prescribed occupation and industry.

Clause 7 amends section 52 of the principal Law to stipulate that the term limit of a person employed in a prescribed occupation and industry is ten years.

Clause 8 inserts into the principal Law a new section 52A to explain the significance of the Term Limit Exemption Permit and to outline the circumstances under which it may be obtained.

THE IMMIGRATION (AMENDMENT) (No. 3) BILL, 2011

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Immigration Law (2010 Revision) – definitions
3. Amendment of section 30 – persons legally and ordinarily resident in the Islands for at least eight years
4. Amendment of section 42 – application for work permit
5. Amendment of section 44 – consideration of application for work permit by Board or Chief Immigration Officer
6. Amendment of section 48 – grant or refusal of work permit
7. Amendment of section 52 – term limits
8. Insertion of section 52A – Term Limit Exemption Permit

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A BILL FOR A LAW TO AMEND THE IMMIGRATION LAW (2010 REVISION) TO VARY THE TERM LIMIT PROVISIONS; TO CREATE A NEW CATEGORY OF EMPLOYMENT AUTHORISATION; AND TO MAKE PROVISION FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Immigration (Amendment) (No. 3) Law, 2011.

Short title

2. The Immigration Law (2010 Revision), in this Law referred to as the “principal Law”, is amended in section 2 by inserting in the appropriate alphabetical sequence the following definitions -

Amendment of section 2 of the Immigration Law (2010 Revision) - definitions

“ “appointed date” means the date of commencement of the Immigration (Amendment) (No. 3) Law, 2011;

“cut-off date” means a date falling two years after the appointed date; and

“Term Limit Exemption Permit” means a Permit granted under section 52A;”.

The Immigration (Amendment) (No. 3) Bill, 2011

- Amendment of section 30 – persons legally and ordinarily resident in the Islands for at least eight years
3. The principal Law is amended in section 30(1) as follows-
- (a) by deleting the word “or” at the end of paragraph (bb); and
 - (b) by inserting after paragraph (bb) the following paragraph-
“(bc) the holder of a current Term Limit Exemption Permit;
or”.
- Amendment of section 42 – application for work permit
4. The principal Law is amended in section 42 as follows-
- (a) in subsection (4) by inserting after the words “renewal of a work permit” the words “or a Term Limit Exemption Permit”;
 - (b) in subsection (5)(a) by inserting after the words “work permit” the words “or a Term Limit Exemption Permit”; and
 - (c) in subsection 6(a) by inserting after the words “work permits” the words “or Term Limit Exemption Permits”.
- Amendment to section 44 – consideration of application for work permit by Board or Chief Immigration Officer
5. The principal Law is amended in section 44(2) as follows-
- (a) by deleting the word “and” at the end of paragraph (b);
 - (b) by deleting the full-stop at the end of paragraph (c) and substituting “;and”; and
 - (c) by adding after paragraph (c) the following paragraph-
“(d) in the case of a worker who has a term limit of ten years under section 52(1), the extent to which the employer has contributed to the national training initiative.”.
- Amendment of section 48 – grant or refusal of work permit
6. The principal Law is amended in section 48 by deleting subsection (2) and substituting the following subsection-
- “(2) Subject to section 52, on the grant or renewal of an application under section 42, the work permit applied for shall be issued in the prescribed form for such period of up to three years generally, as the Board or the Chief Immigration Officer may determine, save that the Board or, in respect of paragraph (c), the Chief Immigration Officer, may grant a work permit for a period of up to-
- (a) five years to domestic helpers, teachers, doctors, nurses and ministers of religion;
 - (b) five years to workers for positions authorised by the Board in a Business Staffing Plan Certificate; and
 - (c) ten years to persons employed in a prescribed occupation and industry,
- and the work permit shall be endorsed with particulars of the conditions and limitations, if any, imposed by the Board or the Chief Immigration Officer on the grant or renewal.”.
- Amendment of section 52 – term limits
7. The principal Law is amended in section 52 as follows-

- (a) in subsection (1) by deleting the words “in either case” and inserting the words “save that in the case of a worker employed in a prescribed occupation and industry his term limit shall be ten years, whether or not he is a key employee, in any case”; and
- (b) in subsection (12) by inserting after the words “during the currency of his spouse’s work permit” the words “, Term Limit Exemption Permit”.

8. The principal Law is amended by inserting after section 52 the following section-

Insertion of section 52A
– Term Limit Exemption
Permit

“Term Limit
Exemption Permit

52A.(1) Notwithstanding section 52 and subject to the provisions of this section an employer or prospective employer may, in respect of any person-

- (a) whose final work permit expired within thirty days prior to the appointed date or expires on or after the appointed date and who had not applied for permanent residence prior to such expiry; or
- (b) who, at the appointed date is working by operation of law having applied for key employee designation and such application is subsequently refused,

apply to the Work Permit Board, the Business Staffing Plan Board or the Chief Immigration Officer, as the case may be, for the grant of a Term Limit Exemption Permit.

(2) In considering an application for the grant or renewal of a Term Limit Exemption Permit the relevant Board or the Chief Immigration Officer, as the case may be, shall have regard to the provisions of section 44.

(3) A Term Limit Exemption Permit granted under this section shall be for a period of one year from the appointed date and may be renewed upon application for a further period not exceeding the cut-off date.

(4) No period of residence in the Islands in employment authorised by the Term Limit Exemption Permit shall be taken into account by the Board in considering an application under section 30 for permission to reside permanently in the Islands.

(5) A Term Limit Exemption Permit granted under this section may be granted for employment with any employer.

(6) Upon application by the employer and upon the accompanying payment of the prescribed fee, the Board or the Chief Immigration Officer, as the case may be, may vary the Term Limit Exemption Permit by adding or removing a dependant or employer or changing a job title.

(7) An application for the grant of a Term Limit Exemption Permit may be refused, and a Term Limit Exemption Permit may be revoked in the same manner and on the same grounds as are applicable in the case of the refusal or revocation of a work permit.

(8) Where a worker's Term Limit Exemption Permit-

- (a) is to be amended, the fee for such amendment shall be the same as that payable to amend a work permit; or
- (b) has been revoked within six months of its issue, the employer shall be entitled to a refund of fifty per cent of the annual fee.

(9) A person aggrieved by, or dissatisfied with, the decision of the Board or the Chief Immigration Officer, as the case may be, in respect of a Term Limit Exemption Permit may appeal to the Immigration Appeals Tribunal in accordance with section 15.

(10) Where an application-

- (a) for the renewal of a Term Limit Exemption Permit is submitted prior to its expiry; or
- (b) for the grant of a Term Limit Exemption Permit (where such application was submitted prior to the expiry of the worker's final work permit and is for continued employment with the same employer) or the renewal of a Term Limit Exemption Permit was refused and an appeal was lodged with the Immigration

