

CAYMAN ISLANDS



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**THE IMMIGRATION LAW
(2013 REVISION)**

THE IMMIGRATION (AMENDMENT) REGULATIONS, 2013

THE IMMIGRATION (AMENDMENT) REGULATIONS, 2013

ARRANGEMENT OF REGULATIONS

1. Citation
2. Amendment of regulation 4 – application for work permits
3. Amendment of regulation 6 – training and recruitment
4. Amendment of regulation 7 – periodic reports to the Governor
5. Amendment of regulation 10 – applicant for work permit to provide evidence, etc.
6. Repeal of regulation 13 – criteria for designation as key employee
7. Repeal of regulation 13A - occupations eligible for long term permits
8. Amendment of regulation 14B – investment requirements for applicants for Certificate of Permanent Residence for Persons of Independent Means
9. Amendment of regulation 15 – standards of accommodation
10. Amendment of regulation 17 – prescribed fees
11. Repeal of regulation 24 – requirement for payment of repatriation fee
12. Amendment of Schedule 1 – fees
13. Repeal and substitution of Schedule 2 – points system

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**THE IMMIGRATION LAW
(2013 REVISION)**

THE IMMIGRATION (AMENDMENT) REGULATIONS, 2013

The Cabinet in exercise of the powers conferred by section 99 of the Immigration Law (2013 Revision), makes the following regulations-

1. These Regulations may be cited as the Immigration (Amendment) Regulations, 2013. Citation

2. The Immigration Regulations (2013 Revision) in these Regulations referred to as the “principal Regulations” are amended in regulation 4 as follows- Amendment of regulation 4 of the Immigration Regulations (2013 Revision) – application for work permit

(a) by repealing subregulation (2) and substituting the following subregulation-

“(2) The Work Permit Board, the Business Staffing Plan Board, the Cayman Brac and Little Cayman Immigration Board and the Chief Immigration Officer may, on the application of an employer or prospective employer, each in its or his discretion, waive any provision in relation to advertising, but in order to benefit from such waiver the employer or prospective employer must have applied for and received it prior to the submission of his application for the work permit in respect of which the waiver was sought.”.

(b) by repealing subregulation (6); and

(c) by repealing subregulation (7) and substituting the following subregulations-

“(7) No consideration shall be given to an application for a work permit or the renewal of a work permit unless and until the requirements of subregulations (3) and (4) have been complied with unless a waiver has been obtained under subregulation (2).

(8) For the purposes of this regulation a work permit application includes a temporary work permit application where the worker who is the subject of the application is or was employed on a Term Limit Exemption Permit”.

The Immigration (Amendment) Regulations, 2013

- Amendment of regulation 6 – training and recruitment
3. The principal Regulations are amended in regulation 6 as follows-
- (a) in subregulation (1) by inserting after the word “Board” the words “or the Chief Immigration Officer”;
 - (b) in subregulation (3)-
 - (i) by deleting the words “Director of Employment Relations” and substituting the words “Director of the National Workforce Development Agency”; and
 - (ii) by deleting the words “he may, in consultation with the Board” and substituting the words “it may, in consultation with the Board or the Chief Immigration Officer”; and
 - (c) in subregulation (4) by inserting after the word “Board” the words “or the Chief Immigration Officer”.
- Amendment of regulation 7 – periodic reports to the Governor
4. The principal Regulations are amended in regulation 7 by inserting after the word “Board” the words “or the Chief Immigration Officer”.
- Amendment of regulation 10 – applicant for work permit to provide evidence, etc.
5. The principal Regulations are amended in regulation 10 by deleting the words “The Board may require a prospective worker” and substituting the words “The Board or the Chief Immigration Officer may require a worker”.
- Repeal of regulation 13 – criteria for designation as key employee
6. The principal Regulations are amended by repealing regulation 13.
- Repeal of regulation 13A – occupations eligible for long term permits
7. The principal Regulations are amended by repealing regulation 13A.
- Amendment of regulation 14B – investment requirement for applicants for Certificate for Permanent Residence for Persons of Independent Means
8. The principal Regulations are amended in regulation 14B(3) by deleting the words “section 37A(9) and 37D(8)” and substituting the words “sections 30(21), 31(4)(b), 36(1), 37A(9) and 37D(8)”.
- Amendment of regulation 15 – standards of accommodation
9. The principal regulations are amended in regulation 15 as follows-
- (a) by inserting after the word “Board’s” the words “or the Chief Immigration Officer’s”;
 - (b) by deleting the words “it may” and substituting the words “it or he may”; and
 - (c) in paragraph (b) by deleting the words “, from time to time and in such manner as it may direct” and substituting the words “or the Chief Immigration Officer, from time to time and in such manner as it or he may direct”.
- Amendment of regulation 17 – prescribed fees
10. The principal regulations are amended in regulation 17 by repealing subregulations (2) and (3).

11. The principal Regulations are amended by repealing regulation 24. Repeal of regulation 24
– requirement for
payment of repatriation
fee
12. The principal Regulations are amended in Schedule 1 as follows - Amendment of Schedule
1 – fees
- (a) under the heading “Section 30(1) – Permanent Residence – Eight Year Residence:”-
 - (i) by deleting the application fee of “300” and substituting the fee of “1,000”; and
 - (ii) by deleting the words “and who are engaged in gainful occupation” and substituting the words “whether or not engaging in gainful occupation”;
 - (b) under the heading “Miscellaneous Fees:” insert after the item “Section 14 – Application fee for Appeal to Board against decision made by an Immigration Officer” the following item-
“Section 15 – Application fee for appeal to Immigration Appeals Tribunal – 1,000”;
 - (c) under the heading “Section 30(1) – Permanent Residence – Eight Year Residence” by inserting after Note 2 the following Note-
Note 3: In the event that an application for permanent residence is refused, all fees submitted with the application other than the application fee shall be refunded to the applicant.”.
 - (d) under the heading “Section 31(1) – Temporary Residency and Employment Rights Certificate – Spouse of a Caymanian:” by deleting the heading and its subject matter;
 - (e) under the heading “Section 37C – Certificate for Specialist Caregivers” by deleting the words “grant or” wherever they appear;
 - (f) under the heading “Section 49(2), 52(6)-(7), 56(3) – Working by Operation of Law fees:” by deleting the heading and inserting the following heading-
“Sections 42(2) and 52A(12) – Working by operation of Law fees:”;
 - (g) under the heading “Section 52(8) – Term Limit Exemption Permit:-
 - (i) by deleting “Section 52(8)” and substituting “Section 52A”;
 - (ii) under the heading “Section 52A” – Term Limit Exemption Permit” as renumbered by inserting before *Note 1* the following item-
“Fee payable to work by operation of law for the period between 28 October, 2013 and 9 December, 2013 where the employer has

not paid for the grant or renewal of a Term Limit Exemption Permit in respect of the worker in question since 9 December, 2012”; and

- (iii) by inserting after *Note 3* the following Note-
“Note 4: where an employer has paid for the grant or renewal of a Term Limit Exemption Permit on or after 9 December, 2012, he shall not be required to pay any further fees in respect of the ability to continue to work by operation of law as provided for under section 52A(11).” and
- (h) by inserting before the heading “The following persons are exempt from the requirement to pay work permit fees:” the following heading and items-
 “Section 52(4) – Permission granted by Chief Immigration Officer to remain in employment and to have such permission varied:
 - (i) Application to the Chief Immigration Officer for permission to continue in employment whilst awaiting the determination of a permanent residence application; 100
 - (ii) Application to the Chief Immigration Officer for the variation of permission granted in respect of employment whilst awaiting the determination of a permanent residence application; 100”
 - (iii) Approval of application for permission Fee varies
 Fee payable is 50% of annual work permit fee for the occupation, payable every six months Fee varies (See Schedule of Annual Work Permit Fees)
 - (iv) Dependant fee (where the annual work permit fee payable is between \$0-\$2,100) 250 per dependant per annum
 Dependant fee (where the annual 500 per

work permit fee payable is over dependant
 \$2,100) per annum

Note: Dependants must have been previously approved on final work permits in order to be included in application for permission to continue working.

13. The principal Regulations are amended by repealing Schedule 2 and substituting the following Schedule-

Repeal and substitution of Schedule 2 – points system

“SCHEDULE 2

POINTS SYSTEM

Permanent Residence Assessment

Cayman Islands Immigration Department
 Permanent Residence Assessment Form

FACTOR 1	POINTS
<u>Occupation</u> a. Current Occupation b. Priority Occupation	Maximum 30 points Maximum 15 Maximum 15
<u>Explanation</u> 1. Applicants will receive points for their current occupation. The points allocated to occupation are based on current demand for the occupation which is measured based on the ratio of Caymanians to non-Caymanians in the labour market. 2. Applicants will receive additional points if their occupation is one that has been identified as being a priority occupation, meaning one that is needed for advancement of national, economic, cultural or social objectives on a long term basis. The points allocated to each occupation under a. and b. will be reviewed and adjusted periodically as needed.	

3. The points allocated to each occupation under a. and b. will be reviewed and adjusted periodically as needed.
4. The priority list of occupations will be published.
5. The applicant will be awarded points based on the occupation he is working in at the time of the application submission. Where the applicant is unemployed at the time the application is being decided on, no points will be awarded under this category.

FACTOR 2	POINTS
<p><u>Education, Training and Experience</u></p> <p>Points will be allocated based on the applicant's academic qualifications, technical qualifications or educational certificates, by any internationally or nationally recognized institution or official body related in the applicant's current field of expertise or trade</p> <p style="margin-left: 40px;">a. Years of Experience Number of years of experience in the occupation (points based on one point for each year worked in the current occupation field, after a minimum threshold of two years with a maximum of 10 years)</p> <p style="margin-left: 40px;">b. Education</p> <p>Professional Occupations:</p> <p style="margin-left: 40px;">I. Academic/Qualification</p> <p style="margin-left: 80px;">i. Post Graduate Degree/Professional Qualification</p> <p style="margin-left: 80px;">ii. Bachelor's Degree</p> <p style="margin-left: 80px;">iii. Associate's Degree</p>	<p><u>Maximum 25</u></p> <p style="margin-left: 40px;">a. Maximum 10</p> <p style="margin-left: 40px;">b. Maximum 15</p> <p style="margin-left: 40px;">Maximum 15</p> <p style="margin-left: 80px;">i. 15</p> <p style="margin-left: 80px;">ii. 12</p> <p style="margin-left: 80px;">iii. 8</p>

<p>iv. High School Diploma or Equivalent v. None of the above</p> <p style="text-align: center;">OR</p> <p>Skilled/Unskilled Occupations:</p> <p>II. Technical/ Vocational</p> <p>(i) Post Graduate Degree ii Local Licence from the relevant Regulatory body iii Bachelor’s Degree iv Vocational Certificate (greater than 1 year of study) v Associate’s Degree vi Vocational Certificate (less than 1 year of study) vii High School Diploma or equivalent viii None of the above</p>	<p>iv. 5 v. 0</p> <p style="text-align: center;">Maximum 15</p> <p>i 15 ii 15 iii 12 iv 10 v 8 vi 7 vii 5 viii 0</p>
<p><u>Explanation</u></p> <p>(1) Points will be allocated based on one point for each year worked in the occupation field, after a minimum threshold of two years with a maximum of 10 years.</p> <p>(2) With respect to education, applicants will be awarded points under either I or II, not both. Further, the points will only be awarded for educational qualifications as it relates to the applicants’ occupation or vocation.</p>	
<p>FACTOR 3</p>	<p>POINTS</p>
<p><u>Local Investments</u> In assessing an applicant’s local investments under (I) and/or (II) below, points shall be awarded taking into account the amount of the applicant’s monetary investment relative to his actual means.</p>	<p>Maximum 30</p>

<p>I. Investment in property in the Islands and/or II. Investment in a locally licensed company</p>	
<p><u>Explanation</u></p> <p>Total investment (numerator) relative to means (denominator) is calculated as follows up to a maximum of 30 points.</p> $\frac{\text{Total investment}}{0.4 \times [\text{Ave Monthly Income or salary}] \times [60]} \times 30$ <p><u>Note:</u></p> <ul style="list-style-type: none"> • Total investment for the last five (5) years will be for a minimum investment threshold of CI\$50,000, (under this threshold the applicant will not be allocated any points) the applicant will be allocated maximum points, if total investment exceeds CI\$500,000. • Only the applicant's income will be taken into account and the percentage of the investment in his name (in cases where the investment property is jointly owned or he owns a portion of the property). • Purchase agreements for property will NOT be accepted as evidence of actual investment and no points shall be awarded on the basis of a purchase agreement. <p>Total investment is defined as the summation of the following:</p>	

- Purchase price of property *plus* stamp duty paid *less* total liabilities in residential property **OR** total payments (loan deposit *plus* interest payment *plus* principal repayment *plus* stamp duty paid) on residential mortgage for the last five (5) years whichever is higher.
- Market value of investments (stocks, bonds, etc.) in a locally licensed and operated solvent company.
- Investment in a privately owned locally licensed small business which is solvent.
- Personal funds (i.e. not borrowed funds or funds received by way of gift) injected by the applicant to make improvements on property which was transferred as a gift. For the avoidance of doubt, where there are no major improvements made to the property no points will be allocated. Proof of source of funds must be provided.

FACTOR 4	POINTS
<p><u>Financial Stability:</u></p> <p>a. Evidence of cash and savings held locally</p> <p style="padding-left: 40px;">Applicant's total cash and deposits (up to a maximum threshold of CI\$50,000) as a percentage of aggregate salary/income for the last five (5) years</p> <p style="padding-left: 80px;">i.5.0% and Greater ii.4.0% to 4.99% iii.3.0% to 3.99% iv.2.0% to 2.99% v.1.0% to 1.99% vi.Less than 1.0%</p> <p>b. Evidence of salary and income</p> <p style="padding-left: 40px;">Points will be allocated based on the applicant's gross annual salary/income in accordance with the following bands (Cayman Islands dollars);</p> <p style="padding-left: 80px;">i. 150,000 or Greater</p>	<p style="text-align: center;">Maximum 30</p> <p style="text-align: center;">Maximum 15</p> <p style="text-align: center;">i. 15 ii. 12 iii. 9 iv. 6 v. 3 vi. 0</p> <p style="text-align: center;">Maximum 15</p>

<ul style="list-style-type: none"> ii. 130,000 to 149,999 iii. 110,000 to 129,999 iv. 90,000 to 109,999 v. 70,000 to 89,999 vi. 60,000 to 69,999 vii. 50,000 to 59,999 viii. 40,000 to 49,999 ix. 30,000 to 39,999 x. 15,000 to 29,999 xi. Under 15,000 	<ul style="list-style-type: none"> i. 15 ii. 14 iii. 13 iv. 12 v. 11 vi. 9 vii. 7 viii. 5 ix. 3 x. 1 xi. 0
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Explanation

- (1) An applicant must prove that he has sufficient resources through income and salary to support himself and any dependants accompanying him. Also his ability to provide sufficient funds for his and their healthcare, education, accommodation and maintenance is of paramount importance for prospective long term residents.
- (2) When determining the income bracket into which an applicant falls his gross income minus an amount for each dependent child shall be used. In the case of each accompanying child of school age who is not Caymanian, CI\$15,000 per annum shall be deducted. If the dependent child is not accompanying, CI\$2,500 will be deducted.
- (3) Where the applicant has a dependant or dependants who are not of school age a deduction of CI\$12,000 per dependant per annum shall be made.
- (4) In assessing an applicant's salary and income, the income/salary of his spouse will only be combined if there are dependants.

- (5) Written evidence must be provided of his savings at local financial institutions for a period of five years preceding his application.
- (6) No credit will be given in respect of pension contributions.

FACTOR 5	POINTS
<p data-bbox="456 247 1089 310"><u>Community Minded/Integration into the Caymanian Community</u></p> <p data-bbox="550 348 1122 443">Points will be awarded up to a maximum of twenty (20) points for activities falling under the categories as follows.</p> <ul style="list-style-type: none"> <li data-bbox="570 485 1122 1083">I. Two (2) points will be awarded for each year that the applicant has provided a minimum of 35 hours of service annually for up to eight years; <ul style="list-style-type: none"> <li data-bbox="695 653 1122 779">a. Training and mentoring of Caymanians outside of normal work hours or related employer sponsored activities <li data-bbox="695 821 1122 947">b. Personal sponsorship towards a Caymanian's tertiary training, with a minimum of CI\$3,500 per annum <li data-bbox="695 989 1122 1083">c. Actively assist in the rehabilitation and mentoring of offenders <li data-bbox="561 1125 1122 1449">II. One and one half (1.5) points will be awarded for each year that the applicant has provided a minimum of 35 hours of service annually for up to eight years; <ul style="list-style-type: none"> <li data-bbox="695 1251 1122 1314">a. Participation and assistance in a youth programme <li data-bbox="695 1314 1122 1449">b. Training and mentoring of Caymanians within normal work related/sponsored activities 	<p data-bbox="1154 247 1320 279">Maximum 20</p>

<ul style="list-style-type: none">c. Participation and assistance in a sports programmed. Participation and assistance in an arts programmee. Participation and assistance in a local service clubf. Participation and assistance in local church programmeg. Personal donations to community minded activities of a minimum of CI\$2,000 per annum	
<p><u>Explanation</u></p> <ol style="list-style-type: none">1. The extent to which the applicant has successfully settled and integrated into Cayman society is assessed by reference to such qualities as adaptability, motivation, involvement in the community and initiative.2. Applicants who demonstrate an active involvement in the training and mentoring of Caymanians and the rehabilitation and mentoring of offenders will be given higher points.3. Letters confirming an applicant's participation or contribution in any of the activities referred to in this factor will only be accepted from the head of the organisation or an executive member of the Board and the Caymanian beneficiary in cases of training or mentoring and must provide the required details of those activities and the amount of time the applicant was involved.	

FACTOR 6	POINTS
<p><u>History and Culture Test</u></p> <p>An applicant's integration into the Caymanian society will be measured by reference to his knowledge of local history, tradition, customs and current events.</p> <p style="text-align: center;">One half-point (1/2) shall be awarded for each question answered correctly</p>	Maximum 20
<p><u>Explanation</u></p> <p>An applicant will be given an appointment to sit a History and Culture Test. This date may be rescheduled by the applicant once only and the Test must have been undertaken within thirty days from the original date unless there are exceptional circumstances. Where an applicant fails to sit the Test within thirty days of the original date the application will proceed for determination and a score of zero points will be awarded under this Factor.</p>	

FACTOR 7	POINTS
<p><u>Possessing Close Caymanian Connections</u></p> <p>Applicant's relationship to a person who is Caymanian</p>	(Maximum 100)
<p>(a) an applicant who is a Cuban national and who by virtue of a close Caymanian family connection was granted permission to reside in the Cayman Islands by the Governor in Executive Council (as it then was), and who applies for permanent residence.</p>	100 points
<p>(b) an applicant who is the parent, son or daughter of a Caymanian</p>	40 points
<p>(c) an applicant who is the brother, sister or grandparent of a Caymanian</p>	20 points

<u>Explanation</u>	
<ol style="list-style-type: none">1. An applicant is allocated the most points (100 points) if-<ol style="list-style-type: none">(a) he is the parent, son or daughter of a Caymanian;(b) he is a Cuban national granted permission to reside in the Cayman Islands by the Governor in Executive Council (as it then was); and(c) he applies for permanent residence.2. An applicant is allocated 80 points if-<ol style="list-style-type: none">(a) he is the brother, sister or grandparent of a Caymanian;(b) he is a Cuban national granted permission to reside in the Cayman Islands by the Governor in Executive Council (as it then was); and(c) he applies for permanent residence.3. An applicant who is the parent, son or daughter of a Caymanian but who is not a Cuban national granted permission to reside in the Cayman Islands by the Governor in Executive Council (as it then was) is allocated 40 points.4. An applicant who is the brother, sister or grandparent of a Caymanian but who is not a Cuban national granted permission to reside in the Cayman Islands by the Governor in Executive Council (as it then was), and who has not already received 40 points by virtue of being the parent, son or daughter of a Caymanian, is allocated 20 points.	

Note: The points available to persons who are Cuban nationals shall be awarded only in respect of applications received within six months from the date of commencement of the Immigration (Amendment) Regulations, 2013.

FACTOR 8	POINTS
<p><u>Demographic and Cultural Diversity</u></p> <p>To maintain a demographic and cultural balance in our community points will be awarded based on the applicant's country of origin. Countries with fewer residents represented (measured by work permits in effect) will receive more points than countries with higher degrees of representation.</p> <p>(a) exceeding 10% (b) 5-10% (c) Not exceeding 5%</p>	<p>Maximum 10</p> <p>a) 0 b) 5 c) 10</p>
<p><u>Explanation</u></p> <p>In order to maintain a vibrant and diverse community it is desirable to ensure that the permanent population of the Islands is made up of a balance of nationalities rather than domination by only a few nationalities.</p>	

FACTOR 9	POINTS
<p><u>Age Distribution</u></p> <p>Age diversity and balance in the local community is also relevant with respect to national productivity. Points will be awarded as follows:</p> <p>I. 18 - 24 II. 25 - 35 III. 36 - 45 IV. 46 - 60 V. 61 and above</p>	<p>Maximum 10</p> <p>I. 4 II. 10 III. 8 IV. 6 V. 0</p>

<p><u>Explanation</u></p> <ul style="list-style-type: none"> • It is important to maintain age distribution in the labour market in a way that contributes positively to the long-term sustainability of labour supply to the Islands. • Points are allocated based on the number of working years that an applicant has remaining before retirement. This in turn impacts factors such as productivity, pension planning and state health care usage.
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DEDUCTIBLE COMPONENTS	POINTS
<p>1. Character and health</p> <ul style="list-style-type: none"> a. Criminal convictions b. Health issues c. Administrative fines levied in relation to statutory offences d. Lack of a reasonably funded pension plan 	<p>Maximum 100</p>

<p><u>Explanation</u></p> <ul style="list-style-type: none"> (i) Points may be deducted if the applicant has been convicted of an offence against the Laws of the Islands or under the laws of another country, the nature of which offence would, in the opinion of the Board or CIO, make his continued presence in the Islands contrary to the public interest. The number of points deducted will be proportionate to the nature and severity of the offence. (ii) Points will also be deducted if the applicant is certified by a Health Officer to be suffering from a communicable disease that makes his continued residence in the Islands dangerous to the community or is mentally disordered or defective under the Mental Health Law (1997 Revision).
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- (iii) Points will also be deducted if the applicant has committed a statutory offence for which an administrative fine has been levied. The act of not adhering to the Laws of the Islands is reflective of the applicant's character and the deduction of points must be reasonable and proportionate in the circumstances.
- (iv) The Board or CIO shall provide a full explanation in writing justifying any deduction made and show that the number of points deducted was reasonable in the circumstances.

DEDUCTIBLE COMPONENTS	POINTS
Other mitigating factors	Unlimited
<u>Explanation</u>	
<ul style="list-style-type: none"> (i) This includes situations where it has been proven that the applicant has mistreated fellow workers in the workplace, Caymanians or non-Caymanians. (ii) The Board or CIO shall provide a full explanation in writing justifying any deduction made and show that the number of points deducted was reasonable in the circumstances. 	

<u>SCORE TABULATION</u>	<u>APPLICANT'S SCORE</u>
(i) Maximum possible points	215
(ii) Minimum points to be achieved by an applicant in order to receive a grant of permanent residence	110".

Made in Cabinet the 25th day of October, 2013.

Carmena Watler

Acting Clerk of Cabinet.