

**CAYMAN ISLANDS**



# **IMMIGRATION (TRANSITION) (AMENDMENT) BILL, 2020**

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**A BILL FOR A LAW TO AMEND THE IMMIGRATION (TRANSITION) LAW, 2018; AND  
FOR INCIDENTAL AND CONNECTED PURPOSES**

## PUBLISHING DETAILS

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**Sponsoring Ministry/Portfolio:** Ministry of Employment and Border Control



## Memorandum of OBJECTS AND REASONS

This Bill amends the Immigration (Transition) Law, 2018 (“the principal Law”) to empower an officer of WORC to assist a local law enforcement agency in carrying out the functions of law enforcement of the law enforcement agency and to provide for transitional and other incidental matters.

Clause 1 provides the short title of the legislation.

Clause 2 amends section 8 of the principal Law by inserting after subsection (6) a new proposed subsection (6A). The proposed subsection (6A) provides that any officer, including a compliance officer, may, with the permission, and subject to the direction, of the Director of WORC, assist any local law enforcement agency in carrying out the functions of law enforcement of the law enforcement agency.

Clause 3 amends section 58 of the principal Law to provide that a job vacancy must be registered in an electronic job portal managed by WORC. This registration will be compulsory but an employer will also be able to continue to advertise a vacancy in the media.

The clause provides also that Cabinet shall, by notice published in the Gazette, in any other official Government website or official means of communication or any other government media, provide details of the electronic portal.

Further, clause 3 amends section 58 by deleting the word “wilfully” in subsection (5).

Clause 4 amends section 68(2) of the principal Law to provide that the Director of WORC or an officer, not below the level of Compliance Manager, assigned by the Director may impose a fine of up to five thousand dollars where an offence is committed under the principal Law and where there are no fees that are payable or that would have been payable under the principal Law.

Clause 5 provides for transitional provisions. Among other things, the clause provides that section 58(2) of the principal Law as amended by clause 4 of this amending legislation shall not apply to an application by a prospective employer where the application is made before the date of the commencement of this amending legislation. Further, where an application by a prospective employer has not been determined at the date of the commencement of this amending legislation, the application shall be determined in accordance with the provisions of the former section 58(2) of the principal Law.





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## Arrangement of Clauses

Clause	Page
1. Short title .....	7
2. Amendment of section 8 of the Immigration (Transition) Law, 2018 - officers of WORC.....	7
3. Amendment of section 58 - consideration of application for work permit by Board etc.....	8
4. Amendment of section 68 - offence to engage in gainful occupation or to employ persons in contravention of this Part .....	8
5. Transitional provisions .....	9



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**IMMIGRATION (TRANSITION) (AMENDMENT)  
BILL, 2020**

**A BILL FOR A LAW TO AMEND THE IMMIGRATION (TRANSITION) LAW, 2018; AND  
FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

**Short title**

1. This Law may be cited as the Immigration (Transition) (Amendment) Law, 2020.

**Amendment of section 8 of the Immigration (Transition) Law, 2018 - officers  
of WORC**

2. The *Immigration (Transition) Law, 2018*, in this Law referred to as the “principal Law”, is amended in section 8 by inserting after subsection (6) the following subsection —
  - “(6A) Any officer, including a compliance officer, may, with the permission of the Director of WORC and subject to the direction of the Director, assist any local law enforcement agency in carrying out the functions of law enforcement of the law enforcement agency.”.

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

3. The principal Law 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 the prospective employer has been exempted by the Cabinet, the Board or by the Director, has registered the vacancy to which the application relates in an electronic portal established and managed by WORC for fourteen days before the submission of the application in order to ascertain the availability of any one or more of the following in the order in which they are listed —
      - (i) a Caymanian;
      - (ii) the holder of a Residency and Employment Rights Certificate issued under section 37(5) or (16) or section 38; and
      - (iii) a person legally and ordinarily resident in the Islands who is qualified and willing to fill the position; and”;
  - (b) by inserting after subsection (2) the following subsections —
    - “(2A) Cabinet shall, by notice published in the *Gazette*, in any other official Government website or official means of communication or any other government media, provide details of the electronic portal specified in accordance with subsection (2)(b) which will deal with available jobs in the Islands.
    - (2B) A prospective employer, in addition to registering an application under subsection (2), may also at the same time as registration advertise the vacancy in a local newspaper or other prescribed media.”; and
  - (c) in subsection (5), by deleting the word “wilfully”.

**Amendment of section 68 - offence to engage in gainful occupation or to employ persons in contravention of this Part**

4. The principal Law is amended in section 68(2) by deleting the words “any officer at or above the rank of Deputy Director of WORC” and substituting the words “the Director of WORC or an officer, not below the level of Compliance Manager, assigned by the Director”.





**Transitional provisions**

5. (1) Section 58(2) as amended by section 4 shall not apply to an application by a prospective employer where the application is made before the date of the commencement of this amending Law and the application has not been determined at the date of the commencement of this amending Law; and the application shall be determined in accordance with the provisions of the former section 58(2).
- (2) Where a worker's work permit expired on or after 27th March, 2020 and the employer or self-employed worker was unable to make an application for the renewal of the work permit due to the closure of WORC as a result of the Covid-19 pandemic, the worker shall be deemed not to be committing an offence under the principal Law or this amending Law by continuing to work on the same terms and conditions of the expired work permit provided the employer or self-employed worker makes an application for the renewal of the work permit within thirty days of the commencement of this amending Law unless this period is extended by Cabinet by notice published in the *Gazette*, in any other official Government website or official means of communication or any other government media.
- (3) Subject to subsection (4), a right to continue working in accordance with subsection (2) shall continue until the determination of the application and any subsequent appeal.
- (4) If, after the expiration of the thirty day period or any other period by which this period has been extended by Cabinet as specified in subsection (2), a work permit renewal application has not been received by WORC, the worker shall not continue to work or to work for that employer and where the worker continues employment with the employer, both the worker and the employer commit an offence and are liable on summary conviction to a fine of five thousand dollars or to imprisonment for one year or to both.
- (5) Where an employer is unable to make an application for the renewal of the worker's work permit as required by subsection (2) due to the expiration of the worker's term limit under section 66 of the Law neither the employer nor the worker shall be deemed to have acted in contravention of the principal Law or this amending Law where the worker continues to work on the same terms and conditions as the final work permit during the period between 27th March, 2020 and ninety days after the commencement of this amending Law unless this period is extended by Cabinet by notice published in the *Gazette*, in any other official Government website or official means of communication or any other government media.
- (6) Where a worker's work permit expires on or after 27th March, 2020 and the worker's employment with the employer is ended after the expiration without the work permit being renewed, neither the employer nor the worker shall be

deemed to be in contravention of the principal Law or this amending Law where the worker continues to work on the same terms and conditions as those in the expired work permit in the period between the expiration and ending of the worker's employment.

**Passed by the Legislative Assembly the                      day of                      2020.**

*Speaker*

*Clerk of the Legislative Assembly*

