

Corporate Immigration Cayman Islands

The business world gets smaller and globalization becomes more and more rapid, the legal frameworks regulating corporate immigration takes on a new level of importance. To find out more, *Lawyer Monthly* speaks to Jacqueline Conolly, Attorney at law from Cayman law firm, Ritch & Conolly.

How has corporate immigration impacted the business industry in your country?

The Cayman Islands are a leading financial centre with a workforce of approximately 36,000 which includes approximately 20,000 foreign workers from over 100 nationalities. Corporate Immigration is a major issue and successive governments have sought to strike a balance between ensuring that the main pillars of the economy have sufficient workers with the protection of the needs of the local workforce and the rights of foreign workers to long-term residence in the Islands.

To keep pace with a fluctuating economic landscape, immigration systems are constantly changing alongside developments to regulatory, procedural and statutory frameworks. What have been the main legislative changes in regards to corporate immigration?

In seeking to limit the number of foreign workers who could become eligible for long-term residence and eventually citizenship, in late 2003 a limit of seven years was imposed as the maximum period that a foreign worker can work continuously unless designated as a key employee. At the completion of the seven years, the worker must leave the Island for a minimum period of one year. This policy known locally as the 'rollover policy' has proven controversial and was recently temporarily suspended for those who wished to avail themselves of the suspension pending a comprehensive review.

'Key employee' designation allows a worker to continue working after seven years. At year eight, the worker becomes eligible to apply for permanent residence with employment rights which is generally granted if the worker has skills and expertise, has invested in real property and has contributed to the community.

There are now three additional types of permanent residence aimed at foreign investors which either carry the right to work or have the potential to do so. A 25 year

Certificate of Direct Investment is available with a significant investment in a business employing at least 30% Caymanians. A Residency Certificate (Substantial Business Presence) where a person owns at least 10% or is employed in a senior management capacity of an approved category of business. A new Certificate of Permanent Residence for Persons of Independent Means who have invested in developed real estate.

Significant changes have also been made to provide for priority processing of financial industry applications and cheaper and fast tracked permits for the new Special Economic Zone.

What are the common challenges faced by your clients when involved in corporate immigration issues?

Government policies have been responsive to the needs of private corporations thus alleviating various challenges. Temporary work permits can now be obtained within 48 hours and the turnaround on applications has been substantially reduced.

Since the introduction of the seven year term limit, businesses must ensure that steps are taken in a timely manner for the designation of senior staff members as key employees to avoid potential disruption to core services and revenue streams.

Transfers of employees on the sale of a business remain an issue as there is no automatic transfer of work permits. However, our experience has found that Immigration is willing to work to ensure that there is no significant disruption in services.

How complex is the issue of obtaining foreign work permits?

Obtaining work permits is not necessarily complex but it has proven very useful to have expert guidance to suit the particular needs of a

business. Work permits now include five day visitors work visas, 14 day business visitor permits, up to six month temporary permits and 1-5 year permits. A key component for 1-5 year work permits is the requirement to satisfy the Board that the corporation has made all reasonable efforts to obtain a suitably qualified Caymanian by advertising locally and referral to the Department of Employment Relations. However, a waiver of the requirement to advertise can be obtained in exceptional circumstances for e.g. if a company is relocating to the Islands with vital employees.

What, if any, further legislative progressions do you see for corporate immigration?

We await the Government's decision on the 'roll-over policy'. Different proposals have been mooted which range from retention of the policy with a shorter absence from the Islands to the repeal of the policy with all foreign workers being eligible after 8 years of residence to apply for permanent residence with employment rights. **LM**

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