Ministry of
Caymanian Employment
& Immigration
Cayman Islands Government

Governance Policy Framework for Exemption Requests Pursuant To Section 53(1)(b) of the Cayman Islands Caymanian Protection Act (2022 Revision)

This governance policy framework provides clear guidelines for the Cabinet of the Cayman Islands to consider when examining applications for exemptions from Part 7 of the Caymanian Protection Act (2022 Revision) ("the Act"), which sets out the restrictions on who may be gainfully employed within the Islands and, in particular, makes provision with respect to work permit requirements. The objective of the policy framework is to ensure that such applications are evaluated and approved in a manner that prioritizes the national interest, addresses critical skills shortages, recognizes exceptional talent, and upholds fundamental rights.

Purpose

The purpose of this governance policy framework is to outline the circumstances in which the Cabinet of the Cayman Islands may consider exercising its discretion and clarify how applications might be made to Cabinet for an individual's circumstances to be considered under section 53(1)(b) of the Act to grant an exemption from the requirements relating to work permits and term limits. This framework provides guidelines for evaluating and approving exemption requests in a lawful, fair, transparent, and accountable manner. This policy will be published to assist persons in making applications to the Cabinet.

Scope

This policy framework applies to the Cabinet of the Cayman Islands and any individuals seeking an exemption under section 53(1)(b) of the Act from the requirements which relate to work permits and term limits.

Exceptional Circumstances for Consideration

The Cabinet may consider granting exemptions, in exceptional circumstances to applicants, including in the following circumstances:

- ***Critical skills shortage:*** Where the applicant/their prospective employer can demonstrate, by reference to relevant evidence, that the applicant possesses specific skills, expertise or qualifications which are essential to the economic or social development of the Cayman Islands but which are in short supply in the Islands and that they cannot readily be sourced from residents of the Islands to whom Part 7 of the Act does not apply or persons who are able to meet the requirements of Part 7 of the Act.

- ***National interest:*** When the employment of an individual is deemed to be in the national interest of the Cayman Islands, such as for projects of significant economic importance, national security, or public welfare and that individual would not otherwise meet the requirements of Part 7 of the Act.
- ***Exceptional talent or achievements:*** When an individual possesses exceptional talent, expertise, or achievements in their field that are internationally recognized, and their employment in the Cayman Islands would bring significant benefits to the local community or economy and that individual would not otherwise meet the requirements of Part 7 of the Act.
- ***Compelling human rights grounds:***
    - when there are compelling humanitarian reasons, such as cases involving medical emergencies or the protection of vulnerable individuals, which warrant a departure from the requirements of Part 7 of the Act, or
    - where, absent the grant of an exemption, an applicant would have to leave the Islands and this would result in a disproportionate interference with their private and/or family life, or that of their family members, amounting to a breach of section 9 of the Bill of Rights.
    - where, absent the grant of an exemption, an applicant would have to leave the Islands and this would result in a breach of another of their rights protected by Bill of Rights.

Application process

Individuals seeking exemptions from the requirements of Part 7 of the Act must submit formal applications to the Cabinet of the Cayman Islands through the Ministry of Caymanian Employment and Immigration. Completed application forms must include:

- A detailed explanation of the exceptional circumstances warranting the grant of an exemption.
- Supporting documentation, such as evidence of skills shortage, national interest justification, proof of exceptional talent or achievement, or documentation supporting humanitarian reasons or a human right claim under the Bill of Rights, including if appropriate supporting statements from third parties.
- Any other relevant information requested by the Ministry of Caymanian Employment and Immigration, the Department of Workforce Opportunities and Residency Cayman ("WORC") or the Cabinet of the Cayman Islands.

Evaluation and Decision-Making Process

The Cabinet will evaluate each application received based on the exceptional circumstances outlined in this policy framework.

Decisions will be made following a thorough review of the application and supporting documentation.

The Cabinet may seek expert or legal advice or consult relevant stakeholders as necessary to inform decision-making.

Decisions will be communicated to the applicant in writing, along with reasons for approval or denial.

Conditions of Exemption

Exemptions granted by the Cabinet may be subject to specific conditions, which may include duration limits, reporting requirements, or other stipulations deemed appropriate by the Cabinet.

Persons granted exemptions must comply with all conditions set forth by the Cabinet. Failure to do so may result in revocation and other appropriate enforcement action.

Confidentiality and Data Protection

All information provided by employers and individuals in support of exemption applications will be treated with the utmost confidentiality. Personal data will be processed in accordance with the requirements of the Data Protection Act (2021 Revision).

Implementation

The Ministry of Caymanian Employment and Immigration, on behalf of the Cabinet of the Cayman Islands, will be responsible for the implementation and enforcement of this policy.

Review and Monitoring

The Cabinet of the Cayman Islands will periodically review the implementation of this policy framework to ensure its effectiveness and relevance.

Exemptions granted will be subject to ongoing monitoring to ensure compliance with conditions and to assess the impact of exemptions on the Cayman Islands.

Compliance and Accountability

The Cabinet of the Cayman Islands is responsible for ensuring compliance with this policy framework and for upholding accountability and transparency in the exemption process.

Any departure from this policy framework must be capable of objective justification and documented accordingly.

Policy Amendments

Amendments to this policy framework may be made as necessary to reflect changes in legislation, regulations, or best practice.

Any proposed amendments will undergo a review process and approval by the Cabinet of the Cayman Islands.

Policy Effective Date

This governance policy framework shall take effect upon publication.