

**REPORT OF THE  
TERM LIMIT REVIEW COMMITTEE  
("TLRC")**



**Submitted on 28 May, 2012**

Executive Summary.....3

PART I – THE TERM LIMIT REVIEW COMMITTEE (TLRC).....4

Introduction .....4

Terms of Reference.....4

Members .....5

Subcommittees.....5

    Public Relations and Public Input.....5

    Statistics.....6

    Legal .....6

Historical Analysis .....6

Documentation relevant to the decision to introduce a Term Limit Policy.....7

PART II – SUBCOMMITTEE REPORTS .....10

Report of the Statistics Subcommittee .....10

Report of the Public Relations and Public Input Subcommittee .....14

Report of the Legal Subcommittee.....17

PART III – RECOMMENDATIONS.....33

PART IV – SUBMISSION.....36

PART V – APPENDICES.....37

Appendix A – Extract from the Hansard Records of 14 September, 2011.....37

Appendix B – Strategy 16 of the National Strategic Plan: Vision 2008 .....39

Appendix C – Department of Immigration Statistics of Interest .....44

Appendix D – Economic Statistics of Interest.....73

Appendix E – Department of Employment Relations Statistics of Interest.....74

Appendix G – Summary of Individual’s Views on the Term Limit Policy.....80

Appendix H – Summary of Businesses Views on the Term Limit Policy .....82

Appendix I – Views from persons on the extent to which the Rollover should be kept.....83

Appendix J – Views on how the Term Limit Policy affected persons Professionally .....92

Appendix K – Views on how the Term Limit Policy affected persons Economically.....97

Appendix L – Views on how the Term Limit Policy affected persons Socially..... 102

- The population of the Cayman Islands increased by 71% from 1999 to 2009, while the number of Caymanians increased by 63%. Without having some sort of term limit policy, the ratio of non-Caymanian to Caymanian population would be even further distanced.
- From 2006 – 2012 a total of 4,217 Permanent Residency applications were approved.
- From 2006 – 2011 a total of 3,900 Caymanian Status grants were approved.
- There has been an average of 22,303 foreign workers in the Cayman Islands since 2004. In 2007 the number of foreign workers peaked at 24,730. In 2011 the number of foreign workers was 19,927.
- There are substantially low number of Key Employee applications received (1007) from January 2009 – December 2011.
- The process of Key Employee currently allows employers to dictate who remains in the Cayman Islands when in fact it should be based on public input and population growth plans.
- The public input survey results from businesses indicated that the cost of doing business in Cayman was ranked the #1 factor inhibiting organizations to remain and grow in the Cayman Islands, while the Term Limit Policy was ranked #5 out of 8 factors.
- Most persons lack the basic understanding of why the Term Limit Policy was introduced and therefore it is blamed for a wide range of economic, professional, social and legal issues.
- The Legal Subcommittee can find no statute, international convention or other legal instrument which is applicable in the Cayman Islands that confers any expectation or obligation on the Cayman Islands Government to grant permanent residence or citizenship to an individual on the basis of long-term residence in the Islands.
- It may be socially undesirable or morally unacceptable to allow persons who are non-citizens to remain in the Cayman Islands for very long periods of time without offering any opportunity for them to apply for a grant of the right to permanently reside.
- Any laws, regulations and/or policies regarding the term limit provision which apply to private citizens and companies should also apply to Government employees as a whole.
- The work of the TLRC is only the first step to resolving the immigration issues currently facing the Cayman Islands. The Cayman Islands Government needs to carefully consider the wider national economic and social objectives for the Islands and take steps to identify the underlying issues through mediums such as a growth management plan/policy.

### **Introduction**

On 20 September, 2011 the Governor-in-Cabinet appointed a committee to review the Term Limit Policy prescribed by the Islands' immigration legislation.

The Appointment of the TLRC followed an announcement by the Honourable Premier in the Legislative Assembly on 14 September, 2011 (Appendix A) indicating that the present Term Limit policy would be suspended and re-examined.

Having made the concerns of the Government known the Honourable Premier introduced The Immigration (Amendment) (No. 2) Law, 2011 which was passed by the Legislative Assembly and assented to by the Governor on 27 October, 2011 and gazetted on 28 October, 2011. The provisions of this amending legislation is discussed below but in essence it allowed current work permit holders to apply for a term limit extension permit for a period of twelve months beyond the seven year term limit set by section 52 (1) of the Immigration Law 2011 and to further apply for an extension until the 28 October, 2013 which was defined as the cut-off date.

It has been anticipated that this two year period will give the Government of the Cayman Islands the opportunity to receive the report of the TLRC, seek such further input as may be necessary and to thereafter produce any amendments to the current provisions in the law as they deem necessary.

As stated by the Premier, in the House, it is clear that certain natural and global events have adversely affected the Cayman Islands since November 2003 when the Immigration Law 2003 was passed by the Legislative Assembly. In particular were the severe damage caused to the Islands by Hurricane Ivan in 2004 and Hurricane Paloma in 2008 and the necessary repairs that followed causing the work permit force on the Islands to increase by approximately 5,000 new workers.

In addition, the global financial crisis of 2008 saw a loss of investors and visitors as well as a significant decrease in the financial markets business and the related businesses in the financial services sector. The Term Limit Policy has been cited by some as being responsible for the decrease in foreign workers and in the economy over the past four years. To what extent the decline is attributable to the effects of the Term Limit Policy is a question the TLRC sought to establish to the best of its ability.

### **Terms of Reference**

The specific terms of reference of the TLRC were to:

- “(1) Review the term limit provisions of the Immigration Law (2011 Revision) in respect to:-
  - (a) the effectiveness of the current term limit provisions with regard to their purpose; and**

(b) *the effects of the current provisions on the economic and social interests of the Islands,*

AND

(2) *Submit a report containing recommendations to the Cabinet within One Hundred and Eighty days from 20<sup>th</sup> September 2011.”*

### **Members**

The Members of the TLRC as appointed by Cabinet were as follows:

Sherri Bodden-Cowen, MBE (Chairman)

Canover Watson (Deputy Chairman)

Irma Arch

Paulette Anglin-Lewis

Betty Baraud

Richard Christian

Richard Coles

Josephine Habib

Delia Hydes

Kenneth Hydes

Phillip Jackson

Jim O'Neill

Phillip Rankin

Walling Whittaker

Linda Evans, Chief Immigration Officer (Ex-Officio)

Bruce Smith, Deputy Chief Immigration Officer (Enforcement) (Ex-Officio)

Christopher Eakin, Director of Policy & Strategic Mngt, Dept. of Immigration (Ex-Officio)

Deborah Bodden, Secretary (Ex-Officio)

### **Subcommittees**

Very early on in the review process the TLRC identified three areas of focus in trying to address the Government's concerns.

#### **Public Relations and Public Input**

Firstly, the TLRC sought to canvass the views, concerns and opinions of both individuals living within the Islands and local businesses. A Public Relations and Public Input Subcommittee of the TLRC comprising the following members of the TLRC was therefore appointed to complete this work:

- Mr. Kenneth Hydes (Chairman)
- Mr. James O'Neil (Co-Chairman)
- Mrs. Irma Arch-Chirino
- Mr. Richard Christian

- Mr. Bruce Smith
- Mr. Walling Whittaker

### **Statistics**

Secondly a Subcommittee on Statistics sought to identify and compile empirical data that would assist the TLRC in its assessment of the impact and effectiveness of the current Term Limit policy. A Statistics Subcommittee of the TLRC comprising the following members of the TLRC was therefore appointed to complete this work:

- Linda Evans (Chairman)
- Canover Watson (Co-Chairman)
- Betty Baraud
- Philip Jackson
- Paulette Anglin-Lewis
- Philip Rankin

### **Legal**

Thirdly, the TLRC sought to establish the legal basis for the term limit and in particular the legal issues that arise as a result of such a policy or the lack of such a policy. The development of international human rights jurisprudence over this period and the coming into effect of a Bill of Rights for the Cayman Islands later this year are also important factors for consideration by the TLRC. A Legal Subcommittee comprising the following members of the TLRC was therefore appointed to undertake this analysis:

- Sherri A. Boddan-Cowan (Chairman)
- Mr. Richard Coles (Co-Chairman)
- Mr. Christopher Eakin
- Mrs. Josephine Habib
- Mrs. Delia Hydes

## **Historical Analysis**

The integration of foreign nationals into the community, particularly the question of when such persons should be given the opportunity to apply for permanent residence and Caymanian Status (now known as the right to be Caymanian), has been a challenging issue for the Cayman Islands for many years. Prior to the introduction of the Term Limit Policy in 2004 persons were able to remain in the Islands on a work permit for their entire working life without being afforded any greater security of tenure. As human rights took hold in Europe, including the right of a legitimate expectation to citizenship based on length of residence, this policy of indefinite work permits came under greater scrutiny by the United Kingdom and others. As part of their work, the TLRC began by examining a number of documents all of which had contributed to this debate and which were important considerations in reaching a decision to implement the Term Limit Policy.

As a whole the TLRC reminded itself of the purpose behind the establishment of the Term Limit Policy. The TLRC reviewed relevant documentation as outlined below and concluded that the main purpose of the current Term Limit Policy was to limit the number of persons who would become eligible to apply for the grant of a right to permanently reside in the Cayman Islands and eventually develop the right to Citizenship and the right to be Caymanian. The Term Limit Policy proposed to accomplish this by requiring the majority of work permit holders to take a break in their legal and ordinary residence for a period of one year or more after a period of seven years and prior to reaching their eighth year at which time long-term residents become eligible to apply for a grant of the right to permanently reside.

It appears that the original Immigration Review Team's view as expressed in their first report was that it *"is morally and socially unacceptable for persons to remain resident in these Islands for periods longer than ten years without becoming eligible to make application for some form of security of tenure. .... We have concluded that in the future the Cayman Islands will have to be more mindful of international views on human rights particularly in relation to the rights of residency and citizenship for long-term residents, including work permit holders."*

However, it was accepted by the Immigration Review Team that the Term Limit Policy would not to be an absolute policy but where there was a clear and genuine need for an employee to remain, such as where the person were able to qualify as a key employee, such persons would be exempted from the Term Limit Policy. They would become eligible to apply for a grant of the right to permanently reside with a right to work upon reaching eight years of legal and ordinary residence.

### **Documentation relevant to the decision to introduce a Term Limit Policy**

In commencing its review of the Term Limit Policy it was important for the TLRC to firstly establish the purpose for the implementation of the current Term Limit Policy for the Cayman Islands back in 2003.

#### **First, Second and Third Reports of the Immigration Review Team**

The concerns expressed above gave rise to a review of our Islands' immigration policy by an Immigration Review Team (IRT) appointed by the Governor-in-Executive Council in September 2001. The following statement from the conclusion of its First Report set out the clear need for a new approach:

*"Without question the current and past immigration policy that allows for indefinite renewal of work permits has been the underlying factor in the significant and continuing growth of the number of long-term residents in these Islands. The statistics provided in this report underline just how significant that growth has been, particularly in recent times. The pace at which the long-term expatriate population has increased over the past ten years in particular has not allowed for the*

*integration necessary for a cohesive society. That fact, coupled with the sheer volume of expatriates, has resulted in the development of a “them and us” mentality. By and large Caymanians feel increasingly overwhelmed and out of control of their country. Simultaneously, long-term residents have become disaffected and clamour for security of tenure. The IRT is of the opinion that the continued unrestricted growth in the number of long-term residents will have grave social consequences for these Islands if not properly regulated in the context of a new comprehensive immigration system.”*

The First Report also recommended that such a system should be...

*“...designed in such a way that persons who are resident here for ten years or less or who have not yet arrived will either become eligible for Permanent Residence and subsequently British Dependant Territory Citizenship prior to ten years continuous residence or they will leave.”*

These recommendations by the IRT in 2001 were made having taken account of the various legal provisions and recommendations which had preceded their review and which had a relevance to the question of when persons may become eligible to apply for permanent residence and Caymanian Status. These were as follows:

**(a) The Immigration Law (2003 Revision)**

*“Any person over the age of 18 years who has been ordinarily resident in the Islands for a period of ten years may apply to the Board for a grant of Caymanian status.*

**(b) The British Nationality Act 1981**

*“Any person continuously resident in the United Kingdom or its Territories after five years of continuous residence (as defined below) may apply to be naturalized as a British Dependent Territories Citizen.”*

**(c) European Convention on Nationality**

Article 6-3 of the European Convention on Nationality states that:

*“...each state party shall provide in its internal law for the possibility of naturalization of persons lawfully and habitually resident in its territory. In establishing the conditions for naturalization it shall not provide for a period of residence exceeding ten years before the lodging of an application.”*

**(d) National Strategic Plan: Vision 2008**

Strategy 16 of the National Strategic Plan: Vision 2008 (Appendix B) proposed the introduction of a term limit policy of between 5 and 7 years and also that, persons should qualify for a grant of Permanent Residency after a minimum period of 15 years and a minimum of 18 years for a grant of Caymanian Status.

**(e) Third Interim Report of the Select Committee of the Legislative Assembly on the Immigration Law**

This Interim Report also proposed that persons should qualify for a grant of Permanent Residency after a minimum period of 15 years and a minimum of 18 years for a grant of Caymanian Status.



## **Introduction of a Term Limit Policy for the Cayman Islands**

The conclusions of the Immigration Review Team (IRT) in 2003 resulted in the Government introducing a radical new approach to the management of migration: a system of progressive rights which allowed the country to select its future population based on economic and social needs and which at the same time prevented persons who do not meet prescribed criteria from acquiring any right to permanency on the basis of length of residence alone. This new framework was enshrined in the Immigration Law 2003 and took effect on 1 January 2004.

Although a comprehensive review of the immigration legislation was undertaken in 2005/6 by the Government of the day, the structure of the Term Limit Policy remains largely the same today in the Immigration Law (2011 Revision) as the original concept in 2004. The relevant passage from the Immigration Law (2011 Revision) is as follows:

*Section 52(1) – “The term limit of a worker who is a key employee is nine years and the term limit of a worker who is not a key employee is seven years...and upon the expiration of his term limit, the worker shall leave the Islands and neither the Board nor the Chief Immigration Officer shall grant or renew a work permit for him until he has ceased to hold a work permit for not less than one year after he has left the Islands.”*

**Report of the Statistics Subcommittee**

**Data Selection and Sources**

The data of most relevance to the assessment of the effects of the Term Limit Policy may be put into two large categories: general economic indicators and immigration statistics relating to the central elements of the term limit process, i.e. work permits, key employee and permanent residence applications. The Statistics Subcommittee therefore compiled a wide-ranging selection of data from various sources including the Department of Immigration, the Economic and Statistics Office and the Department of Employment Relations.

**Population Growth**

In 1999 the resident population stood at 39,600 with Caymanians making up 20,988 of that number (53%). In 2009 the figure was 55,672 of which 32,840 (or 59%) were Caymanian. Over this ten-year period the overall population grew at 71% while the Caymanian population grew at 63%.

**Business Survey**

Given the oft-repeated criticism that the rollover policy is hurting business the views of the business community were clearly of central importance. The Public Relations & Public Input Subcommittee therefore canvassed input by way of a widely circulated survey. Rather surprisingly, only 97 responses to the business survey were received. But from these responses one particularly interesting finding was made in response to a question which asked businesses to identify in order of importance which factors would influence business owners to grow their business, or in the case of international businesses to remain in the Cayman Islands. The factor which ranked highest was the cost of doing business in the Islands rather than the effects of the Term Limit Policy. The latter in fact ranked only 5th out of 8 factors.

**Unemployment Rate**

The unemployment rate increased in both 2010 and 2011 to 6% and 6.7% respectively. Of those unemployed, 37.6% fell within the high school graduate level of education. But it is also important to note that over 16% of the unemployed have a tertiary education level of Associates Degree or above. Unfortunately it is not possible to establish a direct link between these statistics and the term limit policy. There will undoubtedly be a range of factors that contribute to these statistics.

**Limitations**

Unfortunately a number of statistics that would have been particularly useful in assessing the effects of the Term Limit Policy have either not been possible to obtain or were considered to be unreliable. For example, the Immigration Department's database does not have the capability of producing industry-specific statistics. It is also not possible to determine how many persons who were rolled over have returned to the Islands after a break in stay, or how long a worker remains in

the Islands on average per industry/occupation. These limitations therefore weaken the ability to use statistics as a means to prove the effectiveness of the Term Limit Policy or to demonstrate its weaknesses.

### **Observations of the Subcommittee**

From the information available it is possible however to make some general observations which may, when considered alongside findings from other consultations or sources, add weight to a particular opinion or dispel another. It must be emphasized though that the statistics can only indicate a trend or a current state – they do not in themselves prove that the Term Limit Policy is the sole or main cause of a particular consequence. There may be, for example, a number of contributory factors in a company’s decision to move its business operation to another jurisdiction.

The statistics have, however, enabled general observations to be made in respect to three commonly cited criticisms of the term limit policy.

#### **(i) “The Term Limit Policy has caused the decrease in foreign workers”**

The Term Limit Policy has been cited by some as being responsible for the decrease in foreign workers over the past four years. While the raw figures indeed indicate a decline in the number of foreign workers – from 24,730 in December 2007 to 19,927 in December 2011 – the decline is not necessarily solely attributable to the effects of the Term Limit Policy. It also does not mean that there were 4,803 fewer foreign workers in the Islands in December 2011.

First, it is noted that within the term ‘foreign worker’ there are a number of categories of worker in addition to work permit holders:

- Term Limit Exemption Permit holders
- Persons working by operation of law
- Holders of a Certificate for Specialist Caregivers
- Non-Caymanian Government employees

Bearing this in mind, the decrease in the number of foreign workers during the above-stated timeframe must be considered in light of the following:

- 1,819 persons and their dependants were granted permanent residence on the basis of eight-year residence thereby removing them from the total number of foreign workers (i.e. removing them from any of the four categories above);
- 2,064 persons became married to Caymanians, some of whom were previously work permit holders. It is not possible however to state accurately how many of those persons were previously work permit holders or only took up residence in the Islands upon becoming married; and

- 491 out of the 4,803 persons were non-Caymanian Government employees. Some of these persons may have become work permit holders.

It can be seen therefore that many of the 4,803 persons who were previously categorized as foreign workers did not leave the Islands but have simply moved to a different category of residence.

**(ii) “Term limit policy is causing business to leave the Islands”**

It is frequently reported in the media that the Term Limit Policy is driving business away from the Islands. Whilst it is true that some businesses have indeed moved to other jurisdictions the evidence in fact suggests that the Term Limit Policy is only a minor factor in the decision to move. As noted above, a survey undertaken by the Public Input and Public Relations Subcommittee shows that the Term Limit Policy is only ranked fifth out of eight in the list of reasons given for businesses leaving the Islands. The top reason given was the overall cost of doing business in the Cayman Islands.

It is also clear that businesses have not sought to avail themselves of the facility that exists to have workers remain beyond the seven-year term limit. Between January 2009 and December 2011 only 1,007 applications for key employee designation were received. This might suggest that the Term Limit Policy is not the reason for business leaving the Islands; it might also be that businesses are so frustrated with the bureaucracy and uncertainty involved in having to apply for key employee designation that they are simply choosing to replace their employees at the end of year seven or move the entire business elsewhere.

**(iii) “The Term Limit Policy is causing a ‘brain drain’ amongst professional occupations”**

In addition to the previous observation about the lack of interest in the key employee facility it should also be noted that the Government introduced preferential policies for persons employed in the financial services industry by creating a presumption in favour of key employee designation to those employed in particular occupations.

Professional and managerial workers across the various industries amount to 3,545 or approximately 18% of the current foreign workers statistic. However, since 2005 there have only been a total of 530 key designation approvals and of that total only 289 or 55% of the approvals have been for professional and managerial workers.

Although the TLRC sought to determine if persons in those occupations were voluntarily leaving early or were waiting until their term limit expired to leave, that information could not be obtained or could not be considered reliable. Unfortunately it was also not possible to

determine accurately how many workers returned to work in the Islands after their break in stay.

In response to concerns over the number of workers who would be required to leave in 2011 and 2012 as a result of the expiry of their term limit (bearing in mind that 2011 was the seventh year since the introduction of the term limit policy in 2004), and the negative impact that this would have on an already struggling local economy, the Government introduced the Term Limited Exemption Permit (“TLEP”) facility in October 2011. This allowed workers reaching the expiry of their term limit to remain until October 2013. Statistics indicate that since its introduction only 58% of those eligible for a TLEP have applied. Of the 401 applications received as at January 31<sup>st</sup> 2012, 388 (or 96.7%) are for persons employed in skilled, unskilled and technical occupations (i.e. non-professional categories). The apparent disinterest in this facility, if it may be so described, may be further evidence that the term limit policy is not the reason why business and professionals are leaving the Islands.

### **Term Limit Policy meeting its original objectives**

Whilst the previous paragraphs have focused on particular criticisms of the Term Limit Policy, the statistical data also indicates that the policy is serving its purpose, namely to restrict the number of persons who become eligible to remain long-term in the Islands. Considering that there have been an average of 22,303 foreign workers in the Islands each year since the introduction of the Term Limit Policy in 2004, there have only been 1,604 grants of permanent residence since 2006. It should also be pointed out that the majority of those persons granted permanent residence did not come through the key employee filter. Most were persons who were resident prior to the introduction of the Term Limit Policy and who fell within the transitional arrangements in the Law. The majority of those granted permanent residence since 2004 (excluding those persons married to Caymanian) were employed in the skilled and professional occupations.

## Report of the Public Relations and Public Input Subcommittee

### Overview

In addition to receiving input from business sectors it was also important to garner the perceptions and opinions of the general public at large in respect to the Term Limit Policy. As such, the Public Relations and Public Input Subcommittee was formed.

The Public Relations and Public Input Subcommittee focused on two key objectives:

- Public Relations
  - To provide easy access to information on the Term Limit Policy and the work of the TLRC; and
  - To inform the public on the importance of their input.
  
- Public Input
  - To collect as much information as possible from the public (business and private individual, separately) in respect to specific questions relating to the Term Limit Policy.
  - In particular, conduct two surveys using the Survey Monkey™ platform
    - Individual Survey
    - Business Survey

### Public Relations Programme


The 9<sup>th</sup> December, 2012 was designated as the launch date for the public education and outreach activities. In an effort to reach the largest cross-section of the resident population of the Cayman Islands members of the TLRC participated in a wide range of media events which included appearances on Talk Today, Daybreak and Cross Talk. During these media engagements members explained the background to the Term Limit Review Committee and its specific terms of reference. Members were also able to answer questions from members of the public as to the workings of the Term Limit Policy. Local print and electronic media also carried coverage of the TLRC activity on launch day.

### Public Input

One of the TLRC's main objectives was to create easy access to relevant information relating to the ambit of the review into the Term Limit Policy. To this end a portal was created on the Immigration Department's website which gave access to various documents on the subject matter. To maximize outreach to, and participation by, private individuals, companies and non-governmental organizations two surveys using the Survey Monkey™ online survey platform were conducted over a period from 9 December, 2011 to 16 January, 2012. Printed versions of the surveys were also made available to the public for collection from the Government Administration Building which

could be completed and returned by mail. Persons wishing to submit their views in writing could do so by mail and email.

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### Term-Limit Review Committee

The Cayman Islands Term-Limit Review Committee is now seeking public input to assist in developing recommendations to the government on this immigration policy. Specifically the Committee is looking for input on the way the public would like to see Term Limits in Cayman managed going forward.

The Term-Limit Review Committee was appointed by the Governor in-Cabinet. The terms of reference for the Committee are to address the effectiveness of the current Term Limit provisions; its effects on the social/economic interests of these Islands; and the fee structure associated with the grant of work permits.

**Survey**

- [Social and Economic Impact of Rollover on Individuals](#)
- [Social and Economic Impact of Rollover on Businesses](#)

**Term-Limit Review**

- [Term Limits Legal Summary](#)
- [Term Limit Review Committee Members](#)
- [Term Limit \(Rollover\) Timeline](#)
- [Term Limit Press Releases](#)

**Term Limit Press Releases**

[Talk about Rollover](#) Opinion-gathering on immigration term limits ("Rollover") begins Friday, 9 December.

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## Observations of the Subcommittee

The objective of the subcommittee was to receive input from as large a cross-section of the population as possible using both electronic and face to face means of communication. The public input gained, which is provided in detail at the appendices to this document, can be summarized as follows.

### *(i) Survey participation by private individuals (appendix B)*

The majority of individuals responding to the survey were female (60%) and the survey indicated that 43% of all individuals completing the survey earned between 3,599.00KYD and 5,999.00KYD. The result from the questions pertaining to country of origin and immigration status indicated that the largest groups were from the Cayman Islands (36.5%) and Caymanian/Caymanian by grant /spouse/dependent (53%) respectively.

### *(ii) Views from the business community (appendix C)*

The respondents to the business survey indicated that while the current Term Limit Policy was a concern to them and impacted upon their business development there were much greater challenges to doing business in the Cayman Islands. In particular, the factors that would deter plans to grow their business in the Cayman Islands were:

1. The cost of doing business (utilities, accommodation, salaries);

2. The reputation of the Cayman Islands;
3. Global economic conditions; and
4. Annual fees payable to Government.

***(iii) Responses to whether the Term Limit Policy should be retained (appendix D)***

The majority of survey respondents were of the view that the current Term Limit Review Policy should be discarded. Of the 269 respondents who held this view 32% were Caymanian/Caymanian by grant/spouse/dependent. A total of 19% of respondents felt that the policy should remain in its current format. Of those who supported the retention of the policy opinion was equally divided between shortening and extending the break in stay period.

***(iv) Impact of the Term Limit Policy with respect to professional development (appendix E)***

76% of respondents to the survey held the view the current Term Limit Review Policy had no professional impact on them. The balance of the individuals taking the survey was fairly evenly split with 8% opining that there was less training available as result of the policy.

***(v) Economic impact of the Term Limit Policy on respondents (appendix F)***

The responses indicated that the current Term Limit Policy had a minimal economic impact on the lives of respondents.

***(vi) Social impact of the Term Limit Policy on respondents (appendix G)***

Responses indicated that the Term Limit Policy had led to some social disruption, from the forced departure of close friends from the Islands to the Islands becoming less welcoming.



### Analysis of Current Law

The relevant passage from the Immigration Law (2011 Revision) is as follows:

*Section 52(1) – “The term limit of a worker who is a key employee is nine years and the term limit of a worker who is not a key employee is seven years...and upon the expiration of his term limit, the worker shall leave the Islands and neither the Board nor the Chief Immigration Officer shall grant or renew a work permit for him until he has ceased to hold a work permit for not less than one year after he has left the Islands.”*

### Main Exceptions to the Term Limit Policy

There are a number of exceptions to the basic limitation quoted in the preceding paragraph, some of which pave the way to long-term residence. These are as follows:

#### **(i) Section 49 subsections (4) and (5) – Designation as a Key Employee**

*“(4) Before the Board can designate a worker as a key employee, the employer shall, at the time of such application, provide such particulars as to satisfy the Board that the worker fulfills one or more of the following requirements and if so satisfied the Board may designate the worker as a key employee after taking into account such particulars, if any, under section 44(3) or (4) as relate to the application-*

- (a) he is recognised as having particular expertise in his field of practice, trade or employment and the Board recognises that there is difficulty in attracting such persons to the Islands or retaining such persons within the Islands;*
- (b) he is or will be directly involved in training Caymanians or developing their skills in the field in which he is employed or practises and his expertise in this regard is important to the effective continuation of such training or development;*
- (c) he is a professional employee whose expertise and skills are in short supply globally and are not available in adequate measure in the Islands and it is of economic and social benefit to the business or the Islands to attract such skills to the Islands;*
- (d) his absence from the Islands will cause serious hardship to his employer, to Caymanians, or be detrimental to the Islands;*
- (e) his business contacts are, or will be, of importance to the continued success of the business or its contribution to the Islands;*
- (f) there exist other economic or social benefits to the Islands by virtue of securing or retaining his specialist skills or expertise; or*
- (g) the circumstances of his particular case are considered by the Board to be exceptional and to justify a special reason to employ him or to allow him to be designated as a key employee.*

*(5) Where a worker is designated as a key employee by the Board upon application by his employer for renewal of his work permit, a presumption shall exist in favour of renewals until that worker has reached his term limit save that such a presumption may be rebutted-*

*(a) by any findings under section 44(4)(a), or section 48(9) and (10); or*

*(b) where the key employee is in breach of any obligation placed upon him by his employer for the purposes of being designated as a key employee or he no longer meets the criteria upon which he was so designated as a key employee.”*

**(ii) Section 31 – Spouse of a Caymanian:**

*“The spouse of a Caymanian may apply to the Chief Immigration Officer and thereafter to the Caymanian Status and Permanent Residency Board for permission to reside in the Islands and if such application is successful the Chief Immigration Officer or the Board, as the case may be, shall grant to the applicant a Residency and Employment Rights Certificate for a period of six months or seven years, respectively.”*

**(iii) Section 32 – Dependant Child of a Permanent Residence Holder**

*“A dependant of a Residency and Employment Rights Certificate holder, having attained the age of eighteen years, may apply to the Board for a Residency and Employment Rights Certificate and shall, at the discretion of the Board, be granted the right to permanently reside in the Islands under section 30(1) if-*

*(a) he was declared in the original application for the Certificate;*

*(b) he is found to be of good character and conduct;*

*(c) he has been legally and ordinarily resident in the Islands for at least seven years immediately prior to the application; and*

*(d) the holder of the Residency and Employment Rights Certificate continues to possess it or has become a Caymanian.”*

**(iv) Section 34 – Persons of Independent Means**

*“(34) A person of independent means who has attained the age of eighteen years and who satisfies the requirements of this section may apply to the Chief Immigration Officer for a Residency Certificate for Persons of Independent Means.*

*(2) An applicant under this section shall be granted a Residency Certificate for Persons of Independent Means, without the right to work, valid for twenty-five years and renewable thereafter at the discretion of the Chief Immigration Officer, if he satisfies the Chief Immigration Officer that-*

*(a) he has no serious criminal conviction;*

*(b) he is in good health and possesses adequate health insurance coverage; and*

*(c) he has attained the financial standing required by subsection (3).*

*(3) The applicant will be deemed to have attained the financial standing referred to in subsection (2) if, as a minimum he can show that he has-*

*(a) a continuous source of annual income in the prescribed amount without the need to engage in employment in the Islands;*

- (b) invested the prescribed sum in developed residential real estate in the Islands; and*
- (c) made other local investments in the prescribed amount.”*

**(v) Section 37A – Certificate of Direct Investment**

- “37A. (1) A person who has a personal net worth in the prescribed amount and who-*
- (a) has made or proposes to make, an investment equal to or greater than the minimum prescribed amount in any licensed employment generating business or businesses in the Islands, whether already existing or a new venture, and in which he does or will exercise substantial management control;*
  - (b) has a substantial business track record or an entrepreneurial background, including specific professional, technical and other knowledge relevant and necessary to carry on the pertinent business or businesses;*
  - (c) can prove that his personal net worth meets the minimum prescribed requirements; and*
  - (d) can prove-*
    - (i) that he has available to him and under his personal control funds to the value of the proposed investment amount; or*
    - (ii) that he has already invested the minimum prescribed sum of money in a licensed employment generating business in the Islands,*
- may apply to the Chief Immigration Officer for a Certificate of Direct Investment but such Certificate shall not confer any right to a licence under the Local Companies (Control) Law (2007 Revision) or the Trade and Business Licensing Law (2007 Revision).”*

**(vi) Section 37C – Specialist Caregivers**

- “37C. (2) The criteria, in respect of a person’s eligibility for employment under a Certificate for Specialist Caregivers, are as follows –*
- (a) (i) the employee or prospective employee shall hold a final work permit;*
    - (ii) where the employee or prospective employee held a final work permit which has expired, the application for employment under a Certificate for Specialist Caregivers may be made if the employee or prospective employee is otherwise legally resident in the Islands;*
    - (iii) where the employee or prospective employee held a final work permit which has expired and the employee or prospective employee has departed the Islands, the application for employment under a Certificate for Specialist Caregivers shall be made within one year from the date of that departure;*
    - (iv) the employee or prospective employee shall hold a final non-renewable work permit issued under section 52(10); or*
    - (v) where the employee or prospective employee held a final non-renewable work permit issued under section 52(6) which has expired, the application for employment under a Certificate for Specialist Caregivers may be made if the employee or prospective employee is otherwise legally resident in the Islands as a visitor;*

*and in relation to subparagraphs (i) to (v), such final work permit or final non-renewable work permit is or was for employment by an employer (including, the Government or a nursing home approved by the Governor) as a domestic helper, nurse or nanny, or in some other care giving capacity;*

*(b) the employee or prospective employee is or was employed with the employer or former employer making the application, as a domestic helper, nurse or nanny, or in some other care giving capacity, for at least three years immediately prior to the application;*

*(c) the employee or prospective employee is or was employed for the purpose of caring for a sick person, elderly person or handicapped person; and*

*(d) the employee or prospective employee is in good health and possesses health insurance coverage.”*

**(vii) Section 52 (12) - Spouses of other Workers**

*“A person-*

*(a) who is married to-*

*(i) a worker;*

*(ii) a person employed by the Government of the Islands;*

*(iii) a person employed by the Government of the United Kingdom, in the Islands;*

*(iv) a person employed by any statutory authority or Government owned company, the employees of which are by law not required to hold work permits; or*

*(v) a person who is working by operation of law under subsection (6) or (7),*

*and whose right to work in the Islands will expire before that of his spouse;*

*(b) whose marriage is in the opinion of the Board or the Chief Immigration Officer not a marriage of convenience;*

*(c) who is not living apart from his spouse under a decree of a competent court or under a deed of separation; and*

*(d) who has not lived apart from his spouse for an aggregate period of three months out of the twelve months immediately preceding the application for the grant in circumstances which, in the opinion of the Board or the Chief Immigration Officer, have led it to conclude that the marriage has broken down, may, during the currency of his spouse’s work permit or contract of employment with the Government of the Islands or with the Government of the United Kingdom in the Islands or in the period during which his spouse is working by operation of law apply for the grant of a work permit or the renewal of an existing work permit; and the Board or the Chief Immigration Officer may grant the application-*

*(i) other than in respect of a person to whom subparagraph (ii) applies, for a period not exceeding that of the spouse’s work permit or any renewal thereof or of his contract of employment as aforesaid or of the period for which his spouse is working by operation of law; or*

*(ii) in the case of a person whose spouse’s right to be granted work permits is subject to a term limit of seven years as provided for in subsection (1), for a period not exceeding nine years from the commencement of his term limit,*

**(viii) Section 52A – Term Limit Exemption Permits**

*“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.”*

**(ix) Section 52 (21) - General Exceptions**

*[The seven and nine-year term limits do not apply to a person]-*

*“(a) who acquired permanent residence prior to the 21st December, 2006 and at such date had not obtained a Residency and Employment Rights Certificate; or*

*(b) who before the 21st December, 2006, had, and continues to have, his normal place of work and abode for the time being outside the Islands and who enters the Islands to work on a temporary work permit for a specific purpose or occasion only and leaves the Islands at the conclusion thereof or upon the expiration of the temporary work permit, whichever first occurs, including-*

*(i) legal counsel acting in any matter whether before a court in the Islands or otherwise;*

*(ii) visiting doctors or other specialists in the medical field;*

*(iii) skilled specialist tradesmen;*

*(iv) travelling salesmen; or*

*(v) other persons in similar circumstances.”*

**Identification of the main legal issues arising out of the foregoing term limit provisions and exceptions**

Although by no means exhaustive, the Legal Subcommittee identified four main questions (legal considerations) which arise as a result of the Term Limit Policy:

***First Question: Are there international treaties, United Kingdom or Cayman Islands statutes or other legal obligations that require the Cayman Islands Government to grant to all work permit holders and other third country citizens residing in the Cayman Islands security of tenure in the Islands after a certain number of years of continuous residence?***

Although the United Kingdom is a Member of the Council of Europe it is not a signatory nor has it ratified the **European Convention on Nationality** of 1997. It is therefore not bound by the provision of that Convention which provides that -

*"...each state party shall provide in its internal law for the possibility of naturalization of persons lawfully and habitually resident in its territory. In establishing the conditions for naturalization it shall not provide for a period of residence exceeding ten years before the lodging of an application.*

If not binding authority, the importance of the Convention should be regarded at least as being persuasive authority in any deliberations regarding obligations on a State in respect to the granting of citizenship to non-nationals.

The **EU Council Directive 2003/109/EC of 23 November 2003**, Article 4 (1) provides that Member States shall grant long-term resident status to third-country nationals *"who have resided legally and continuously within its territory for five years immediately prior to the submission of the relevant application"*. Article 4(3) provides that periods of absence shorter than six consecutive months and not exceeding ten months in total within the 5 year period shall not be treated as interrupting the relevant period for acquiring resident status, and longer periods may also be disregarded for specific or exceptional reasons of a temporary nature. The main criterion for acquiring long-term residence status under this directive is *"the duration of residence in the territory. It goes on to provide that 'Residence should be both legal and continuous in order to show that the person has put down roots in the country'"*.

This Directive is not directly applicable to the Cayman Islands. However, the criteria set down in this Directive may well be considered relevant by the European Court of Human Rights to the developing jurisprudence in relation to Article 8 of the ECHR (see below).

The **British Nationality Act 1981** provides that any person continuously resident in the United Kingdom or its Territories after five years of continuous residence (as defined below) may apply to be naturalized as a British Overseas Territories Citizen. However the residency requirements are as follows: The applicant must be:

- i. in the relevant territory at the beginning of the period of 5 years ending with the date of the application; and
- ii. not absent from that territory, in that 5 year period, for more than 450 days; and

- iii. not absent from that territory, in the period of 12 months ending with the date of the application, for more than 90 days; and
- iv. not, on the date of the application, subject under the immigration laws to any restriction on the period of stay in that territory; and
- v. not, at any other time in the 12 month period ending with the date of the application, subject under the immigration laws to any restriction on the period of stay in that territory; and
- vi. not, at any time in the period of 5 years ending with the date of the application, in that territory in breach of the immigration laws.

The provisions of the British Nationality Act therefore do **not** apply to work permit holders who are subject under the immigration laws of the Cayman Islands to restrictions on their period of stay in Islands. In particular, all work permits are granted for a fixed period of time and the **Immigration Law (2011 Revision)** states at section 48(8) that “...*such grant shall not give rise to any right to, or any expectation of a right to any further new work permit thereafter...*”. The Legal Subcommittee notes however that the Cayman Islands has not control over this Act so the position could change at any time, thereby necessitating a shortening of our term limit perhaps to four years.

The **Immigration Law (2011 Revision)** provides at Section 29(1) that persons who have been legally and ordinarily resident for a period of eight years may apply for the right to reside permanently in the Islands. The Law goes on, at section 30(3), to provide that the suitability of an applicant for permanent residence will be determined by reference to a points system.

However, not all work permit holders will be able to achieve the minimum period of continuous residence of eight years as section 52(1) of the **Immigration Law (2011 Revision)** provides that a term limit of seven years applies to a worker who is not a key employee. As the term limit for key employees is nine years only key employees will be eligible to apply under section 30 as they are the only workers who will be continuously legally and ordinarily resident for the required eight years.

With respect to the right to be Caymanian (Caymanian Status previously) the **Immigration Law (2011 Revision)** provides at section 22(3) that -

“Any person who is a British Overseas Territories Citizen by reason of a certificate of naturalisation or registration issued under the British Nationality Act 1981 by virtue of his connection with the Islands, or any Act preceding, amending or replacing that Act, may, if he has been legally and ordinarily resident\* in the Islands for at least fifteen years or at least five years after the receipt of that grant, apply for the grant of the right to be Caymanian.”

It is therefore clear that persons wishing to apply for a grant of the right to be Caymanian are not only mandated to fulfill a residency requirement but will be required to be naturalized or registered in order to be eligible to apply.

Based on the foregoing the Legal Subcommittee concludes that there is no international treaty, United Kingdom or local legislation that would automatically require the Cayman Islands to grant security of tenure to all work permit holders once they reach a certain number of years of continuous residence in the Cayman Islands. However, a review of the international standards noted above, whilst not legally binding on the Cayman Islands, clearly demonstrate a growing trend amongst European nations to grant third-country nationals within their territory the opportunity to become citizens of that territory. These are therefore important considerations, even if not binding. Additionally, with the growing body of human rights jurisprudence that is already developing within the European Court of Human Rights there are bound to be many instances when the longer a person continuously resides in the Cayman Islands the more likely it will be that our Grand Court or the European Court of Human Rights will determine that they have put down roots in the Territory and there is no fair or rational reason why they should be refused the opportunity to apply for the right to permanently reside and for citizenship. This is discussed further below.

***Second Question: Are there human rights or constitutional implications that will require the Cayman Islands Government to grant to all work permit holders and other third country citizens residing in the Cayman Islands security of tenure in the Islands after a certain number of years of continuous residence under the Bill of Rights Freedoms and Responsibilities of the Cayman Islands or under the European Convention on Human Rights (ECHR)?***

The right of individual petition to the European Court of Human Rights (ECtHR) was reintroduced to the Cayman Islands in 2006. This means that an individual may lodge an application directly with the Court if he or she believes that he has personally and directly been a victim of a violation of the rights and guarantees afforded by the European Convention on Human Rights (ECHR). From 6 November 2012 however individuals claiming violations of those human rights set out in the Bill of Rights will be able to seek redress before the local courts. Once an applicant has exhausted all domestic remedies available at law he or she would still be entitled to exercise the right of individual petition to the Strasbourg court.

The ECHR does not however contain provisions expressly dealing with the right of a non-citizen to enter or remain in a Contracting State. The ECHR in fact provides for each Contracting State to create its own immigration policy. This is also reflected in article 13 of our own Bill of Rights which will come into effect later this year.



A review of the relevant case-law shows that the European Court of Human Rights may however limit the power of an individual state to refuse admission to or expel non-citizens where such a measure is considered to be a breach of the right to family and private life under article 8 of the ECHR.

Article 8 of the ECHR provides as follows:

- "1 Everyone has the right to respect private and family life, his home and his correspondence.*
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others".*

The key requirements that will be addressed by the court when considering an Article 8 claim (from the case of Razgar) are as follows:

- Will the proposed removal be interference by a public authority with the exercise of the applicant's right to respect for his private or (as the case may be) family life?
- If so, will such interference have consequences of such gravity as potentially to engage the operation of Art 8?
- If so, is such interference in accordance with the law?
- If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others?
- If so, is such interference proportionate to the legitimate public end sought to be achieved.

Article 9 of the Bill of Rights contained in the Cayman Islands Constitution contains a similar provision, in part it says -

***"Private and family life***

- (1) The Government shall respect every person's private and family life, his or her home and his or her correspondence.*
- (3) Nothing in any law or done under its authority shall be held to contravene this section to the extent that it is reasonably justifiable in a democratic society -*
  - (a) in the interests of defence, public safety, public order, public morality, public health ...*
  - (b) for the purpose of protecting the rights and freedoms of other persons;*

*(e) to regulate the right to enter or remain in the Cayman Islands".*

**Section 13** of the Constitution makes detailed provision about freedom of movement in the Cayman Islands.

**Section 16** of the Constitution makes provision about non-discrimination. But section 16(4)(b) states that the principle of non-discrimination shall not apply to any law so far as it makes provision "*...with respect to the entry into or exclusion from, or the employment, engaging in any business or profession, movement or residence within, the Cayman Islands of persons who are not Caymanian*".

**Section 19(1)** states that "*All decisions and acts of public officials must be lawful, rational, proportionate and procedurally fair*".

**Section 26(1)** adds [in respect to enforcement of rights and freedoms] that "*Any person may apply to the Grand Court to claim that government has breached or threatened his or her rights and freedoms under the Bill of Rights and the Grand Court shall determine such an application fairly and within a reasonable time*".

#### **ECHR Case-law**

There are a number of European Court of Human Rights cases which have developed the concept of the right to private and family life. The right has been held to include "*... the network of personal, social and economic relations that make up the private life of every human being*". The case-law also indicates that Article 8 also protects the right to establish and develop relationships with other human beings and the outside world ... and can sometimes embrace aspects of an individual's social identity. Importantly, the European Court has stated that "*it must be accepted that the totality of social ties between settled migrants and the community in which they are living constitute part of the concept of private life within the meaning of Article 8*".

In *Rodrigues Da Silva and Hoogkamer v The Netherlands (2006) 44 EHRR 729*, the European Court took the view that the grant of a residence permit could fall within the scope of Article 8.

In *Slivenko v Latvia (2003) 39 EHRR 490* despite the fact that the family had already been expelled collectively, so that their joint family life was not itself directly affected, the European Court held that Article 8 nevertheless operated to protect their "private life" (paragraphs 96 and 97).

In *Kunic v Slovenia, Application No" 26828/06, 13 July 2010*, the European Court reiterated that regardless of the existence or otherwise of a family life, the Court considers that the expulsion of a settled migrant constitutes interference with his other right to respect for private life. It depends on the circumstances of the particular case whether it is appropriate for the Court to focus on the family life aspect rather than the private life aspect. Other relevant factors may include the

individual's family circumstances, including the status of children born in the Islands who might otherwise be stateless; whether the individual must return to a country in which he or she would face a substantial risk of torture, inhuman or degrading treatment (contrary to Article 3 of the ECHR).

However, the cases also show that the European Court recognizes a broad margin of appreciation for States in matters of social policy, i.e. if it can be shown that the interference is in accordance with law of the state, pursues one or more legitimate aims, and is necessary in a democratic society to achieve those aims then it is unlikely that an allegation of breach of human rights will be sustainable.

As the Grand Chamber of the Court recognised in *Stec v United Kingdom (2006) 43 EHRR 1017, 1029, paragraph 52*:

*"a wide margin is usually allowed to the State under the Convention when it comes to general measures of economic or social strategy. Because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to appreciate what is in the public interest on social or economic grounds, and the Court will generally respect the legislature's policy choice unless it is manifestly without reasonable foundation".*

The European Court confirmed in *Bensaid v United Kingdom (2001) 33 EHRR 205, 216, paragraph 32* that *"States have the right, as a matter of well-established international law and subject to their treaty obligations, including the ECHR, to control the entry, residence and expulsion of aliens"*.

It is therefore the conclusion of the Legal Subcommittee that although the facts and particular circumstances may need to be taken into account if allegations of a breach of human rights are to be avoided altogether, it appears from the rulings of the European Court that in general article 8 of the ECHR cannot be successfully invoked where it can be shown that constitutional or legislative measures by that State pursue the legitimate aims of a democratic society and as a matter of social or economic policy it is in the public interests for such provisions to be enacted and enforced by the authorities.

Whilst preparing this report the TLRC ensured there was awareness by all members of the very regular changes being made in the United Kingdom. Within the last month, The Home Secretary of the United Kingdom has announced that by the end of the summer new immigration rules in the United Kingdom will prevent rampant abuses of Article 8 of the Human Rights Act which covers the right to family life. The Home Secretary stated that she will issue guidelines which will direct judges that only in exceptional circumstances should foreign criminals or illegal immigrants be permitted to remain in the United Kingdom. Although we do not know yet what form such new rules will take it is clear that the United Kingdom are taking steps which they believe to be in the public interest and which will limit the ability of the certain non-residents to rely on Article 8 of the Human Rights Act. The Home Secretary has conceded that such new rules may be open to

challenge but that the United Kingdom would look at other measures if necessary and was confident in what the Government was proposing to do.

The Legal Subcommittee further takes the view that if an action were to be brought against the Cayman Islands Government for refusing a work permit on the basis that it will result in that person having to leave the jurisdiction after a number of years of residence (and therefore is a breach of article 8 of the ECHR and/or Section 9 of the Bill of Rights) this action could be successfully defended on the basis that section 9(3)(e) of our Bill of Rights prevents a claim of a breach of the right to family and private life where it is reasonably justifiable in a democratic society to regulate the right to enter or remain in the Cayman Islands. It is therefore most important that the Cayman Islands Government set out clearly in writing the reasoning and justification for such an immigration policy. It can also be shown through the various Immigration Laws, the Cayman Islands Constitution, the National Strategic Plan - Vision 2008, the First Report of the original Immigration Review Team, the Third Interim Report of the Select Committee of the Legislative Assembly on the Immigration Law and many other public and legislative debates that the Cayman Islands has long considered it to be in the social and economic interests of such a small territory to protect its citizens by limiting the right to enter, remain and settle amongst non-citizens and therefore reserves the right to terminate or refuse to renew the right to reside and work to any non-citizen.

If in fact this defence can be maintained it would appear that the Cayman Islands would not be in breach of any human rights provisions if it continued to grant or refuse work permits for non-residents on a case by case basis properly exercising its discretion given the circumstances of each case. The Cayman Islands Government's position will be severely compromised if in fact a very substantial sector of the non-Caymanian work force employed as Civil Servants or by Statutory Authorities are not subject to the same term limits as workers employed in the private sector. It would be difficult, if not impossible, to justify why if it is in the long-term social and economic interests of the Cayman Islands to limit the right to enter, remain and settle amongst non-citizens why an exception should be made to that policy for all non-Caymanian workers within Government and Statutory Authorities.

***Third Question: Since the Cayman Islands could be at risk of international criticism, legal, human rights and other social implications that result from third-country nationals residing in the Islands for long continuous periods of time without any security of tenure, should the Islands retain a fixed term policy for most work permit holders and, if so, what should the length of the term limit be?***

Having reviewed the international examples quoted in this report, namely

- the European Convention on Nationality (to which 29 Member States of the Council of Europe have signed)
- the EU Council Directive 2003/109/EC of 23 November 2003
- the approach taken by other territories as set forth in Appendix 2

- the National Strategic Plan of the Cayman Islands: Vision 2008; and
- the Third Interim Report of the Select Committee of the Legislative Assembly on the Immigration Law,

the Legal Subcommittee has concluded that notwithstanding the preceding paragraph it would not be advisable for the Cayman Islands Government to allow workers to remain for indefinite periods of time without affording the opportunity to become settled and to apply for citizenship and the right to be Caymanian. Whilst the period used by other countries is persuasive evidence as to the length of time that is normally accepted prior to acquiring the opportunity to obtain citizenship, the Cayman Islands is a unique territory with a uniquely small population and its right to preserve its national identity should not be dictated by the strict adherence to the term limits set by other nations.

The Legal Subcommittee is of the opinion that if the Government concludes that the policy requiring a break in stay for persons who do not meet the criteria for the grant of permanent residence should remain, the research referred to above would suggest a term limit of between 5 and 15 years. The Subcommittee also notes that the policy itself could operate either as it does now, i.e. where the term limit ends before a worker becomes eligible to qualify for the grant of permanent residence (thereby continuing to artificially prevent persons from becoming eligible to apply); or it could be set some years after the person has had the opportunity to apply for permanent residence (perhaps on more than one occasion). For example, the person could be given the opportunity to apply for permanent residence at, say, years five and eight and if they are unsuccessful on both occasions they would be required to leave the Islands at the end of year 10. This approach would allow businesses to retain an excellent, experienced worker who cannot be replaced at that time by a Caymanian. It would also be more difficult to challenge on human rights grounds as the Government would have given the person the opportunity to apply for permanent residence not just on one, but two, occasions.

### **The British Nationality Act**

*Any person continuously resident in the United Kingdom or its Territories after five years of continuous residence (as defined below) may apply to be naturalized as a British Citizen.*

As an Overseas Territory of the United Kingdom we are bound by the provisions of the British Nationality Act and when we allow a person to become a permanent resident that person becomes resident in the territory without immigration restriction and control as to the length of time that they may remain and are therefore eligible for naturalization after five years. It should be noted that this does not automatically lead to a grant of the right to be Caymanian as the Immigration Law (2011 Revision) requires persons to be resident for fifteen years or naturalized for five so the minimum time it would take a new resident to qualify for the right to be Caymanian would remain at over ten years. It should however be noted that in the event that the United Kingdom removed the requirement in the British Nationality Act 1981 that the person be in the territory without immigration restriction and control as to the length of time that they may remain then all work

permit holders continuously resident in the Islands for a period of five years who meets the residency requirements as previously set forth could become eligible for naturalization as a British Overseas Territory Citizen by virtue of their connection to the Cayman Islands.

**Strategy 16 of the National Strategic Plan; Vision 2008:**

*Proposed that persons should qualify for a grant of permanent residency after a minimum period of 15 years and a minimum of 18 years for a grant of Caymanian Status.*

**The Third Interim Report of the Select Committee of the Legislative Assembly on the Immigration Law**

*Proposed that persons should qualify for a grant of permanent residency after a minimum period of 15 years and a minimum of 18 years for a grant of Caymanian Status.*

***Fourth Question: What constitutes a break in stay? Is it merely a matter of the length of time? Is one year enough? Or would a court also look at the nature of the person's absence, i.e. whether they have genuinely broken their ties with the Islands?***

The Immigration Law (2011 Revision) already provides a definition of legally and ordinarily resident which provides as follows:

*“legal and ordinary residence” means a person's uninterrupted voluntary physical presence in the Islands for a period of time without legal impediment (other than a tourist visitor or transit passenger) during which period the Islands are regarded as his normal place of abode for the time being, save that-*

- (a) absences abroad of six consecutive months' duration or less for, inter alia, purposes of education, health, vacation or business during such period shall count as residence in the Islands;*
- (b) absences abroad of more than six consecutive months but less than one year shall raise the presumption that there has been a break in residence; and*
- (c) absences abroad for twelve consecutive months or more shall constitute a break in residence”*

If the TLRC were to recommend a reduction of the break in stay to a period of less than one year this definition would require amendment. The Legal Subcommittee is concerned that a reduction to less than one year could give rise to the criticism that the break is merely a formality and not a genuine break in the worker's residence. As such it can be argued that a break of this nature does not interrupt a person's qualifying period for the purpose of making an application for the right to reside permanently. Further, this argument may be supported by reference to Article 8 of the European Convention on Human Rights. The Legal Subcommittee noted that in the ruling set out in ***Rodrigues Da Silva and Hoogkamer v The Netherlands (2006) 44 EHRR 729, paragraph 44*** the European Court of Human Rights considered that the Government's emphasis on the applicant's illegal residence *“indulged in excessive formalism”* when considered in the context of the relevant family ties. Translating this to the local context the same criticism may apply if persons on a break of stay return to the Islands as visitors during the one-year period, retain their homes, bank

accounts, friends, contacts jobs, etc. The Legal Subcommittee also noted the recent decision of the Upper Tribunal (Immigration and Asylum Chamber) in England which held that a student's membership of a local cricket team and the fact that he had formed friendships and lives with friends in England were credible considerations when agreeing with him that his private life rights had been interfered with by the refusal to renew his student visa.

The Legal Subcommittee is of the opinion that with respect to the break in stay the Court will look to the actual intention in the mind of the person rather than their compliance with a prescribed minimum number of day's absence from the Islands. Therefore, to allow such persons to return even as visitors for long periods of time might only add weight to the argument that the break in stay is simply a formality. It would therefore seem advisable to only allow their return for a very limited number of days during that break.

As a further precaution it is also recommended that persons be required before taking up residence in the Islands to acknowledge in writing that they understand and accept that the required break in stay is an actual break in their legal and ordinary residence in the Islands for the purposes of the Immigration Law (2011 Revision) or indeed for all purposes.

### **Observations of the Subcommittee**

The research conducted during this exercise has enabled general the following conclusions to be reached:

- (i) The Subcommittee can find no statute, international convention or other legal instrument which is applicable in the Cayman Islands that confers any expectation or obligation on the Cayman Islands Government to grant permanent residence or citizenship to an individual on the basis of long-term residence in the Islands. As such there is no need from this perspective to protect against such an obligation through the use of a term limit policy. It should be remembered however that such a step could become necessary at some point in the future if the United Kingdom signed and ratified the European Convention on Nationality or any other Convention which afforded such rights.
- (ii) Even if legally defensible on a human rights basis it may be socially undesirable or morally unacceptable to allow persons who are non-citizens to remain in the Cayman Islands for very long periods of time without offering any opportunity for them to apply for a grant of the right to permanently reside. The original Immigration Review Team, Vision 2008 and the Select Committee of the Legislative Assembly on Immigration all considered this very issue and accepted that after a certain number of years persons should become eligible to apply for a grant of the right to reside permanently in the Islands.
- (iii) The longer a person remains in the Cayman Islands the more likely it is that they will develop ties that may be considered binding. For example, children born here who would

otherwise be stateless; close relations with Caymanians and citizens of the Islands; threats from political instability in their country of origin. In such cases this could give rise to a claim under Article 3 of the ECHR that may overrule the right of the Cayman Islands to control that individual's right to enter and remain in the Cayman Islands.

- (iv) When the examples of other Member States of the European Union and other commonwealth countries are taken into consideration it is clear that most other countries provide an opportunity for non-citizens to obtain a right of abode prior to the ten-year period prescribed in the European Convention on Nationality. Even if the Cayman Islands chose not to use the European Convention on Nationality as a guideline it would seem that some qualifying period must be set after which a person will be given an opportunity to apply for the right to permanently reside.



## PART III – RECOMMENDATIONS

In conducting their reviews the Subcommittees each focused on the specific terms of reference of the TLRC Review and confined considerations to the pure operation and effect of the Term Limit Policy in relation to its intended purpose rather than its part in the wider immigration policy context. Many of the decisions to be taken rest ultimately with the Cayman Islands Government and will involve careful consideration of the wider national economic and social objectives. The recommendations that follow below are therefore intended to be taken holistically as opposed to piecemeal suggested improvements. In particular, the members of the TLRC are strongly of the opinion that any changes to the Term Limit Policy, or indeed immigration policy generally, should be taken in line with a forward looking national population growth management strategy that *inter alia* sets out –

- The minimum size of the population and the required annual growth;
- Skill sets and expertise that is required with relevant quotas once those needs are fulfilled; and
- Projected demographic mix of the population

### Specific Recommendations

The following are the TLRC's specific recommendations -

- Continue to support a fixed-term policy which will require a legitimate break in stay for long-term residents who are unable to qualify for the right to permanently reside under the criteria in place at the time. This will mitigate the risk of such persons becoming a long-term economic or social burden on the Cayman Islands. This policy would also protect against possible challenges under the Bill of Rights or other similar legislation which may create an expectation in favour of being able to reside permanently even if they do not qualify under the points criteria.
- Abolish the key employee mechanism on the ground that it creates an unsatisfactory and artificial vetting system for long-term residents which is effectively controlled by employers and is unfair to employees. Only a very small percentage of the work permit force has successfully passed through the key employee filter and although this may be seen as the Term Limit Policy operating as intended it is very likely that well-qualified and suitable permanent residents do not have the opportunity to apply for permanent residence.
- Instead, allow **all** workers at any time between years 7 and 8 of residence to apply for the right to reside permanently in the Islands and to assess those applications by reference to a more comprehensive and transparent points system.
- Revise the current permanent residence points system to ensure that it meets current Government economic and social objectives and that long-term residents who will be granted permanent residence under the points system:

- have particular qualifications or expertise that the Islands need to attract and retain;
- are directly involved in training, mentoring, and development of the local Caymanian population and recognize the importance of the continuation of such training and development;
- have skills and expertise that is not available in adequate measure in the Islands already and will not be in the foreseeable future so as to prevent positions from being permanently blocked for Caymanians who are currently in the work force or will shortly qualify to take such jobs; and
- are of long-term social and economic benefit to the Islands.

The weighting of the factors upon which points are allocated should be reviewed and adjusted on a periodic basis to meet the current needs of the Territory and government policy generally.

- If a work permit holder has not been granted permanent residence after ten years of continuous residence he or she must leave the jurisdiction for a genuine (i.e. not artificial) break in stay for a minimum of not less than one year; further, they should be required to acknowledge in writing that such break in stay amounts to a break of their legal and ordinary residence in the Islands thereby extinguishing any expectation of that period counting as legal and ordinary residence for the purpose of qualifying to apply for permanent residence. It should also be made clear that any return to the Islands as a visitor during the break of stay period should be limited to short periods of time identified by law and in exceptional circumstances only.
- Implement the already developed Employer Accreditation System that:
  - a. requires the employer to have clear, measurable policies for the training of Caymanian employees that guarantee opportunities for advancement; and
  - b. clearly defines rewards to companies for achieving and maintaining their accreditation status.
- Implement term limits for Government employees to ensure there is a level playing field
- Ensure that the Department of Immigration receives sufficient funding to attract and hire sufficiently well-qualified personnel to -
  - Ensure the proper scrutiny of work permit applications, applications under the Employer Accreditation System, Business Staffing Plans, and applications for permanent residence and the right to be Caymanian; and
  - Ensure that our immigration laws are properly enforced.
- Ensure the public are properly educated about the Government's overall immigration strategy for the long-term settlement of eligible non-nationals whilst at the same time promoting the training and upward mobility of Caymanians.
- Ensure new third country nationals arriving to work in the Islands are fully aware of the fixed-term policy and the criteria which the Islands set in order to establish long-term residency.

- Ensure that long-term residents taking a break in stay understand that such a break will be considered a legal break in their legal and ordinary residence and will disallow the right to apply for the right to permanently reside until they once again attain the qualifying period should they return.
- Settle on a term limit policy for the long run which provides certainty and predictability for employer and employee and which avoids the uncertainty of constantly moving goalposts.

**Submission**

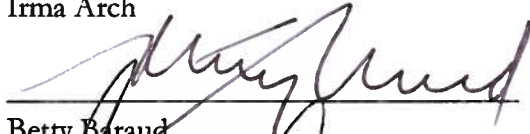
This report is submitted to the Honourable Ministers and Members of Cabinet by the members of the TLRC.



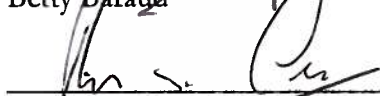
Sherri Bodden-Cowen, MBE (Chairman)



Irma Arch



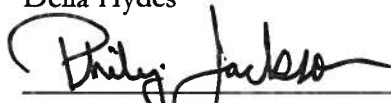
Betty Baraud



Richard Coles



Delia Hydes



Philip Jackson



Phillip Rankin



Linda Evans, Chief Immigration Officer (Ex-Officio)



Bruce Smith, Deputy Chief Immigration Officer (Enforcement) (Ex-Officio)



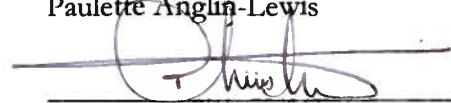
Christopher Eakin, Director of Policy & Strategic Mngt, Dept. of Immigration (Ex-Officio)



Canover Watson (Deputy Chairman)



Paulette Anglin-Lewis



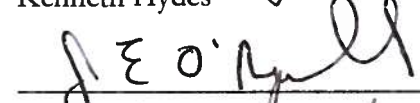
Richard Christian



Josephine Habib



Kenneth Hydes



Jim O'Neill



Walling Whittaker



DANNY SCOTT

**Appendix A – Extract from the Hansard Records of 14 September, 2011**

*In announcing this, the Honourable Premier stated as follows:*

*“Since the rollover policy was introduced, global economic conditions have deteriorated and the financial crisis which began in 2008 has continued to plague most of the developed countries of the world. Additionally, specific increases in competition have been putting pressure on our financial industry and other areas of our economy. Low and no tax financial centres such as Singapore and Switzerland have experienced increased growth in their financial industries by over 20 per cent during this financial crisis. Developed economies, such as Canada, have also begun to pursue the economic benefits of having a viable international financial industry.*

*Cayman is therefore facing stiff competition from a variety of other jurisdictions. It is my opinion, as Minister for Financial Services with responsibility for economic development, and it is also the view of the Government, that the policy needs to be re-examined. It has been said that the continuation of the present policy has led to a decline in all sectors of the economy. It has therefore negatively affected jobs for Caymanians, and will continue to cause our people to suffer economic hardship.*

*However, such growth will take investment and right now we remain dependent on our service industries to create economic activity, and jobs for our people. Our major economic sectors remain in financial services and tourism, and our economic activity is driven by them. It is from these sectors that large chunks of government’s revenue are generated.....”*

*Many thought rolling over qualified and trained persons would create opportunities for Caymanians. This has not happened. In fact, many of the persons that were rolled over took up positions in other competing jurisdictions. The lack of their skills was correspondingly felt here as we failed to gain the economic activities that would have created additional employment for us.*

*Accordingly, I intend to present a paper to the Cabinet next week to place a temporary suspension on the rollover policy for up to two years pending an urgent report from a committee to be established with membership from the Chamber of Commerce, Cayman Finance, the Immigration Review Team (IRT), and other important organisations and persons who represent a range of small businesses.*

*This committee will be tasked with reviewing the positive and negative aspects of the rollover policy in light of the current economic conditions of the Cayman Islands in the context of the current and anticipated world financial conditions, and the competition which we face. The committee will be also tasked to receive input from a wide cross-section of our community and relevant data from the Immigration Department and to provide their findings and recommendations to the Cabinet within 180 days.*

*Having due regard to confidentiality concerns, these recommendations and findings will be widely disseminated, along with Cabinet’s decisions in the matter.*

*It is the Government's intention to encourage suitable economic activity and to have Caymanians obtain viable employment in qualified various fields. Madam Speaker one of the undesirable scenarios we are seeking to prevent is that in which senior managers are rolled over, their jobs relocated to other jurisdictions, and the Caymanian secretaries and administrators working in the business become immediately unemployed.*

*When this happens rental apartment revenues are lost, plumbers, electricians, shopkeepers, super-markets, construction companies, heavy equipment operators, truck owners and every other business feels the economic impact in these Islands. Madam Speaker my information is that there are over 2,200 rental apartments currently empty in this country. These are owned by Caymanians who have invested heavily in their country who are now unable to meet mortgage payments, insurance and other fixed costs associated with their investments, and who now there-fore risk severe losses.*

*Any business which does not put policies in place for the employment and promotion of able and willing Caymanians, is not the sort of partner we need for our sustained development, and will not be permitted to continue or to benefit from this temporary suspension of the rollover policy unless such policies are put in place on a timely basis.*

*The Honourable Premier confirmed that no one need to think that because there will be a temporary suspension that we are just going to give carte blanche to people to let go of Caymanians. In other words, if they are going to keep on people, they have to put some-thing forward to say how many Caymanians they have and how many they are going to keep, or how many they can rehire, in fact. Not how many they are going to keep because they have to keep them. How many they can rehire.*

*What has happened is that as we let go the managers and the top brass in companies, then Caymanian secretaries lost their jobs, Caymanian administrators lost their jobs, and, Madam Speaker, we have unemployment. If they are going to keep them we want to make sure that Caymanians are kept and we need to find out how many Caymanians will be re-employed. Because I am sure that there were fair enough and good enough excuses to have let go some people. But now we have to be given surety in this matter.”*

## Appendix B – Strategy 16 of the National Strategic Plan: Vision 2008

We will create a comprehensive Immigration policy, which protects Caymanians and gives security to long-term residents.

### **Action Plan 1 - Specific Result**

To ensure the prioritisation of the Immigration Policy within the Government policy framework, and that all such policies be linked with the overall Growth Management Strategy.

#### **Action Steps**

1 Establish that the matter of a revision of the country's Immigration policy (including the law, regulations and directives), be made a priority and that accordingly a new comprehensive policy be introduced by no later than August 30th, 2000.

2 Establish that the present aspects of the present Immigration and Labour policies be kept in place EXCEPT for those changes proposed herein.

### **Action Plan 2 - Specific Result**

To ensure a coherent and comprehensive transition from present to the new Immigration Policy.

#### **Action Steps**

1 Establish a transition period (the "Transition period") ("Phase 1") which will be a period of 1 to 2 years and which will last from the beginning of rectification of the present system to the implementation of the new pure roll-over period defined as being a period of 5 to 7 years, ("Phase II") The purpose of the transition period is to facilitate the identification of current long-term residents and the clarification and formalisation of the immigration status of current long-term residents and the further integration into society of current long-term residents.

2 Ensure that all persons present in the islands and who fall into the relevant categories (i.e. those persons who qualify for the grant of either a Permanent Resident Certificate ("PRC"), as defined below, or Caymanian Status, as defined below), be given the right to apply for either of the PRC or Caymanian Status. Those persons who do not qualify in either category or who choose not to apply, (except for work permit holders and/or government contract holders who have been present in the Islands for less than the maximum number of years allowed under the work permit system as outlined in Plan # 3, should be given a grace period of between three (3) and twelve (12) months, (depending on circumstances), or the unexpired duration of their most recent work permit or government contract, whichever is greater, within which to settle all personal matters and leave the islands. An enhanced 'background check' should be put in place in respect of all applicants for the grant of a PRC. During the Transition period, we must provide that people who have already been present in the islands for a substantial period of time not be disadvantaged. Accordingly, any person who has been present in the islands for at least 10 years at the START of the Transition period will be given the chance to apply for the grant of the PRC once they reach the minimum residential period requirement for eligibility for PRC (i.e. 15 years). In the meantime, such category of person would be subject to normal work permit procedures.

3 Establish that after the transitional period no NEW permit-holder can aspire to PRC or Caymanian Status for a period of 5 to 7 years, (i.e. that during that period all new permit-holders entering the island will be subject to a pure roll-over system for the period of 5 to 7 years), at the end of which time the position will be subject to review, with a view to the implementation of the permit-holder PRC-Status graduation (or ladder) system, ("Phase III), promulgated herein and used during the transitional period, as the main immigration policy of the country.

4 Ensure a thorough public awareness campaign which educates everyone on the implications of the new immigration policy.

### **Action Plan 3 - Specific Result**

To establish a work permit system which includes (after the transition period ("Phase I") and before the Comprehensive system ("Phase III"), a mandatory roll-over system for the grant of work permits and/or government contracts ("Phase II").

#### **Action Steps**

- 1 Establish legislation which will specify a maximum length of 0.1 to 3 years on each permit and/or government contract, and the total amount of time which any permit holder or contract holder will be allowed to remain in the islands in such a category. During Phase II such maximum is to be 10 years and during Phase III such maximum is to be 15 years. There will be a grace period while the PRC application is being processed.
- 2 Ensure that upon the grant of each permit that both the employee and employer be given a Record, which both parties will acknowledge by signature, confirming the fundamental terms of the employment and the rights and restrictions of each of them in relation to the employment.
- 3 Establish a quota system whereby no more than "D"% of the total resident population consists of permit holders and/or government contract holders and no more than "E"% come from any particular jurisdiction, such quotes to be revised regularly with regard to the country's Growth Management Strategy.
- 4 Ensure that dependants of PRC holders or persons of Caymanian Status who have themselves been ordinarily resident in the Islands but who have not qualified for the grant of a PRC or Status be given preferential treatment in relation to the grant of a work permit.
- 5 Establish that all persons who reach the maximum allowable length of stay in the Islands under the work permit system, which is 10 years during Phase II and 15 years in aggregate during Phase III, having not qualified for the grant of a PRC, leave the Islands for a minimum period of 1 to 2 years.

### **Action Plan 4 - Specific Result**

To establish a system for the grant of Permanent Residency with the right to work and further that Permanent Residency without the right to work continue as a category of permanent residency on similar lines as presently exists.

#### **Action Steps**

- 1 Establish that all persons who are presently Permanent Residents should be issued with a PRC with or without the right to work as per their present status.
- 2 Identify that a minimum number of 15 years is the time period for which a person must be present in the Islands in order to be eligible to apply for the grant of a PRC.
- 3 Identify other criteria such as contribution/commitment (other than pure financial contribution), to the Islands which will be necessary to establish in order to qualify for a PRC.
- 4 Implement a test of Caymanian Awareness ("TCA") which will seek to determine the applicant's knowledge of significant matters relating to the Islands, to be passed by all applicants before they will be eligible for the grant of a PRC.
- 5 Establish that holders of PRC's may work at any place or in any job of their choice, (which they might obtain next in priority to persons of Caymanian Status), without a work permit or payment of an additional fee and may come and go to the Islands as they please, (subject to a maximum absence of "Y" days in any "Z" year period which is subject to exceptional circumstances such as prolonged illness or absence for educational purposes).



6 Ensure that no holder of a PRC may enter into business in the islands on his own as per the present system.

7 Ensure special consideration be given to dependants of PRC holders especially with respect to consideration for work permits.

8 Establish that dependants of PRC holders who have been present in the islands for more than 8 to 12 years and who demonstrate good character should qualify for the grant of a Temporary Resident Certificate (“TRC”) which shall carry with it the right to work and after a further period of 3 to 5 years and subject to a further test of good character, should qualify for the grant of a PRC.

9 Establish that all applicants for a PRC who are unsuccessful with their application (or who choose not to apply even though they are eligible) leave the islands for a minimum period of 1 to 2 years.

### **Action Plan 5 - Specific Result**

To establish a system for the grant of Caymanian Status.

#### **Action Steps**

1 Ensure that persons with Caymanian connections, as presently defined, can continue to apply for Status.

2 Establish that persons who have been in the Islands for at least 18 years and who satisfy the other criteria set out below, during the Phase I transition period, will be eligible for the grant of Caymanian Status.

3 Ensure that holders of PRC’s who have been present in the islands for a period of 6 to 10 years after the grant of the PRC (or permanent residency under the present system, as the case maybe, who have not yet met the minimum residency requirement for the grant of status as set out herein) and who can demonstrate substantial commitment (other than pure financial contribution), to the Islands will also qualify to apply for Status.

4 Define substantial commitment to the Islands to be established by way of a higher test based on similar criteria to that in relation to the grant of PRC’s.

5 Establish a quota after the transitional period on the total number persons to be granted Caymanian Status annually as in 2 above.

6 Ensure that Section 14(d) of the present Immigration Law be removed from the law and from Immigration Policy in general.

### **Action Plan 6 - Specific Result**

To ensure equal treatment of Government and the private sector.

#### **Action Steps**

1 Enact legislation to ensure that all aspects of the immigration and labour policies apply equally to the private sector as well as to Government. To create a new Human Resources Authority or similar body which will merge and make more efficient the functions of Immigration and Labour policy.

### **Action Plan 7 - Specific Result**

#### **Action Steps**

1 Merge the present functions of the present Dept. of Labour, Dept. of Immigration and the Immigration Board together in one unit constituted as a statutory authority to be known as the Human Resources Authority (“HRA”).

2 Establish that the Authority be run by an Executive Director, (who must be a person of Caymanian Status), and his/her staff, and that he/she be advised on more controversial issues by an Advisory Board, which will consist of persons of Caymanian Status, constituted and appointed along similar lines as the present Immigration Board but with no executive powers, and which represent a

cross-section of industries present in the country's economy rather than across-section of representatives from different districts, which is presently the case.

3 Provide that the HRA reports directly to a Committee of the Legislative Assembly by way of a detailed annual report.

4 Provide the HRA with adequate resources for policing and enforcement.

#### **Action Plan 8 - Specific Result**

To ensure an efficient and more impartial Appeals system.

##### **Action Steps**

1 Establish the Human Resources Appeals Tribunal (the "HRAT"), which shall be the sole arbiter on all appeals from decisions of the Human Resources Authority.

2 Ensure that at least one legally qualified person sit on every appeal heard by the HRAT.

3 Abolish the present Labour Appeals Tribunal, and Immigration Appeals procedure which will also be replaced by the HRAT.

4 Ensure that individuals with Labour and/or Immigration grievances shall have the right of audience before the HRAT.

#### **Action Plan 9 - Specific Result**

To ensure matching of potential employees with potential employers and remove as far as possible potential for abuse of either of the Labour or Immigration policy.

##### **Action Steps**

1 Require that all Caymanian Status and PRC holders seeking employment register with the Human Resources Authority.

2 Require that all employers seeking personnel register details of their needs with the HRA within a reasonable time period of the need arising.

3 Require that a comprehensive public awareness and education campaign be instituted which will advertise the ongoing advantages both to employee and employer to register with the HRA, and include the ongoing provision of information on the rights and restrictions on employees and employers under the law.

#### **Action Plan 10 - Specific Result**

To ensure a fair, efficient and comprehensive training system and succession plan be instituted and maintained.

##### **Action Steps**

1 Establish through each industry body, in conjunction with the Human Resources Authority, basic guidelines for training to be used by all employers.

2 Promote the pooling of resources for the support of ongoing needs.

3 Require that all employers have in place an appropriate training system and succession plan for the advancement of all staff of Caymanian Status (who will have preference) and staff who are holders of PRC's only, (except in special circumstances where it might be necessary to train a work permit holder).

4 Ensure that employers and employees comply with training programme guidelines and succession plans by requiring them to make an annual filing, which is to be signed off on by each member of staff who is a person of Caymanian Status or a PRC holder, with the HRA confirming their compliance with the guidelines.

#### **Action Plan 11 - Specific Result**

To increase the number of Caymanians in managerial positions in the work force.

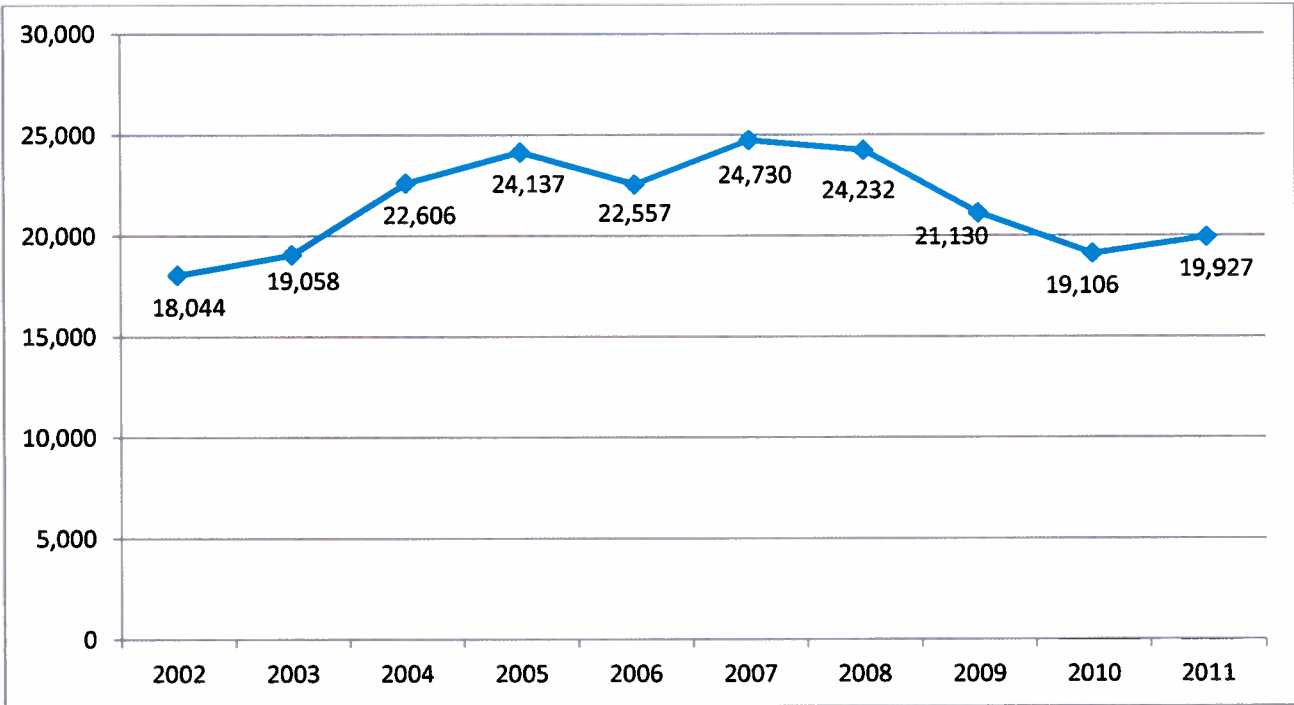
**Action Steps**

- 1 Ensure pay and benefits are applied equitably to workers at the same professional performance levels in both the public and private sectors.
- 2 Ensure that employers include a compliance statement regarding the provisions of this plan in their annual filings to the HRA (which are referred to in Plan 10, step 4).

**Appendix C – Department of Immigration Statistics of Interest**

**A. CURRENT WORKERS**

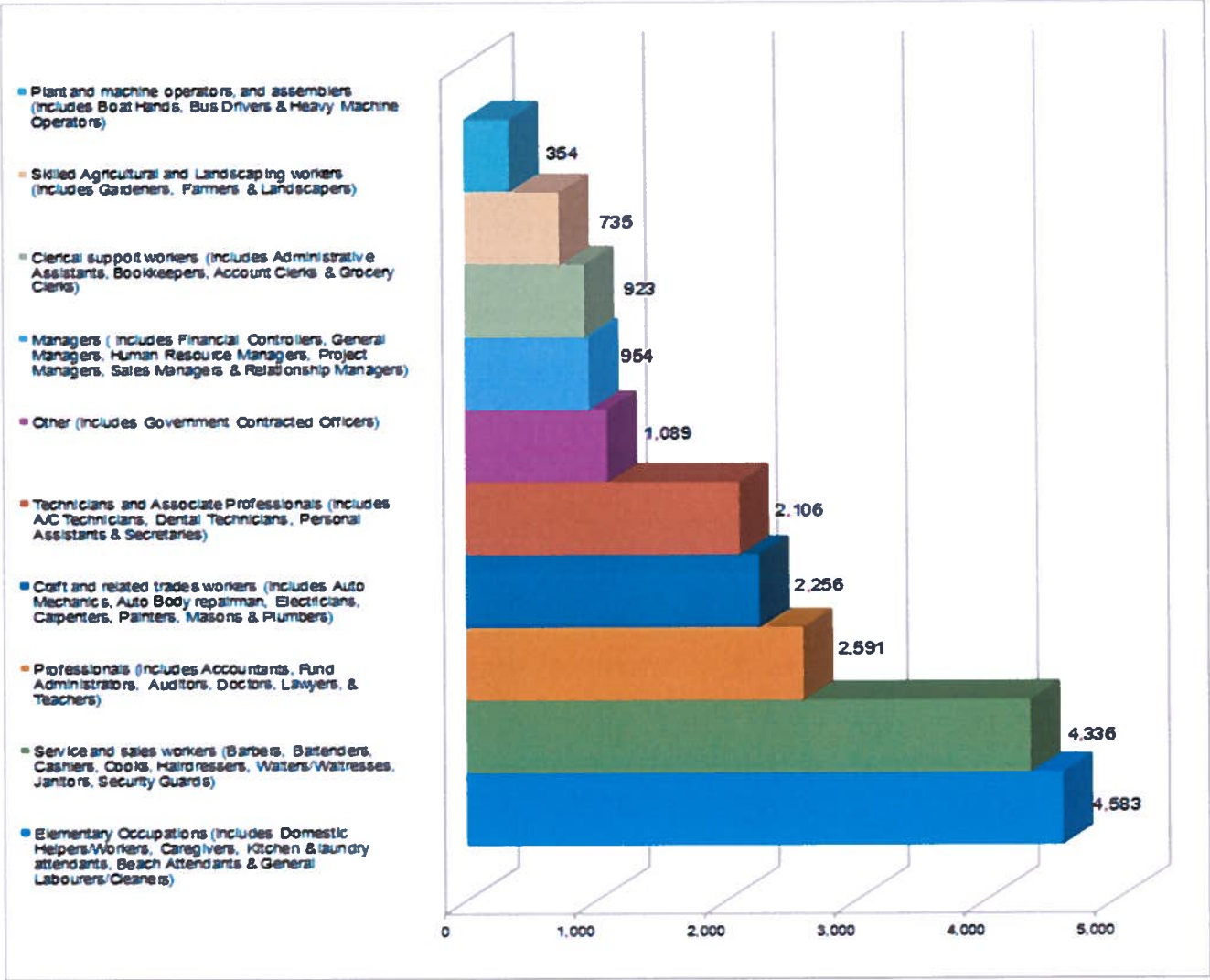
**Foreign Workers 2002 to 31, December, 2011**



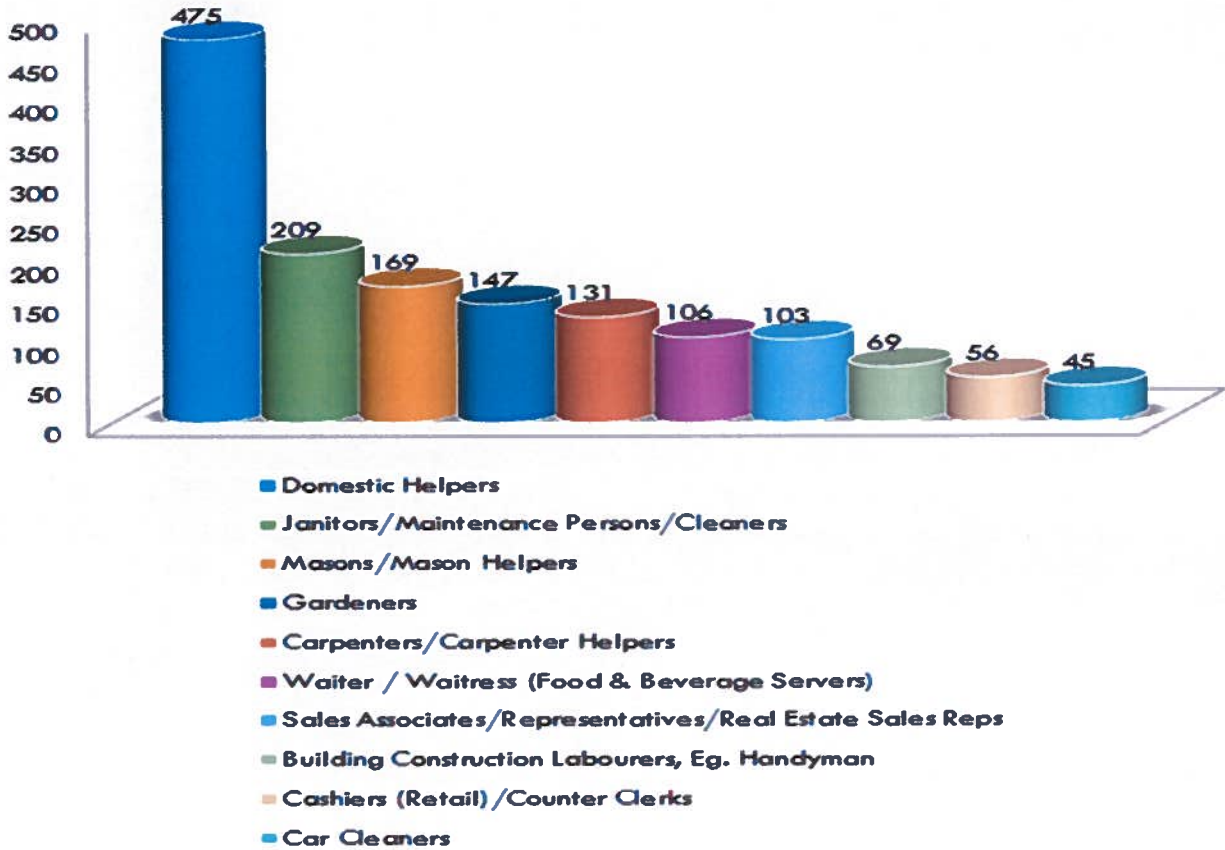
**Summary of Current Foreign Workers from 2002 to 31 December, 2011**

	Term Limit Exemption Permit	Work Permit Renewal (Spouse's Term Limit)	Work Permit Grants (spouse's Term Limit)	Work Permit Renewals	Work Permit Grants	Work Permit Grant – Fixed Term	Working by Operation of Law	Final Non-Renewable work Permit	Specialist Care Giver	Temporary Work Permit	Temporary Permit Extension	Temporary Work Permit – Seasonal Worker	Group Employee/Government Contract	Totals
2002				10,363	4,221	16				1,971	310		1,163	18,044
2003				10,166	4,882	16				2,574	325		1,095	19,058
2004				9,302	5,892	16				5,819	656		921	22,606
2005				9,555	8,003	16				4,944	562		1,057	24,137
2006				9,236	7,373	438	17			3,828	346		1,319	22,557
2007				8,647	7,300		3,581			3,435	305		1,462	24,730
2008				9,150	6,837		3,270			3,201	312		1,464	24,232
2009		1		9,250	5,896		1,892	45		2,505	252	16	1,273	21,130
2010		11		38,675	5,019		1,457	64		2,578	259	11	1,029	19,106
2011	174	45		197,951	6,349		1,043	96	76	2,916	254	33	971	19,927

# of Foreign Workers Employed at as 31 December, 2011 by Major Occupation Groups



### # of Work Permit Application Refusals (top 10 Occupations)



A total of 2,429 applications were refused by the Boards for the entire year 2011 (excluding Term Limit Exemption Permits).

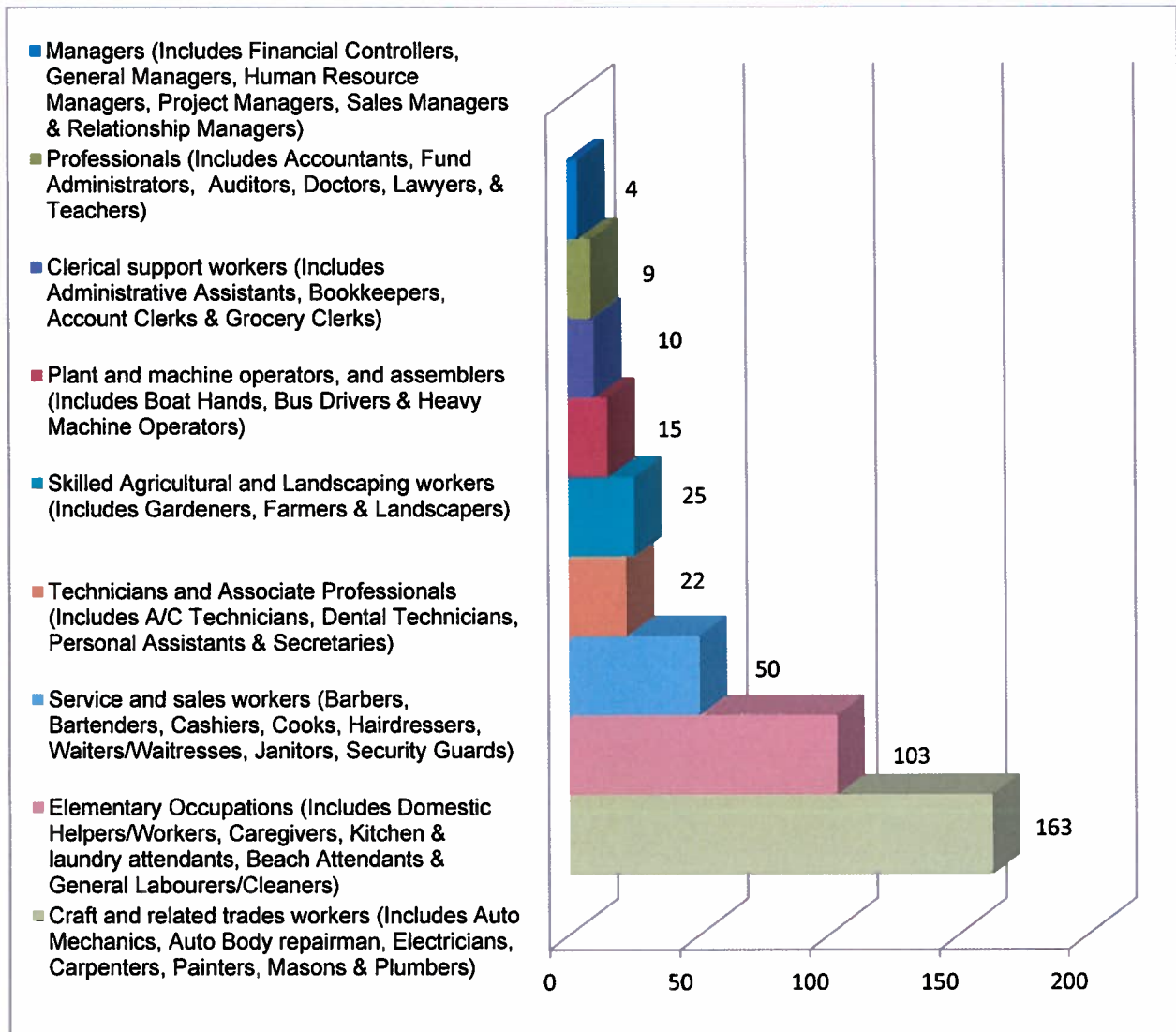
**B. TERM LIMIT EXEMPTION PERMITS**

**Status of TLEP Applications at Feb 17, 2012**

<b>Applications being processed</b>	<b>52</b>
<b>No Power (e.g. term limit expired before 28 Sept 2011)</b>	<b>11</b>
<b>Approved</b>	<b>306</b>
<b>Deferred</b>	<b>45</b>
<b>Letter of refusal sent</b>	<b>18</b>
<b>Application scheduled for IB Meeting</b>	<b>50</b>
<b>Total</b>	<b>482</b>

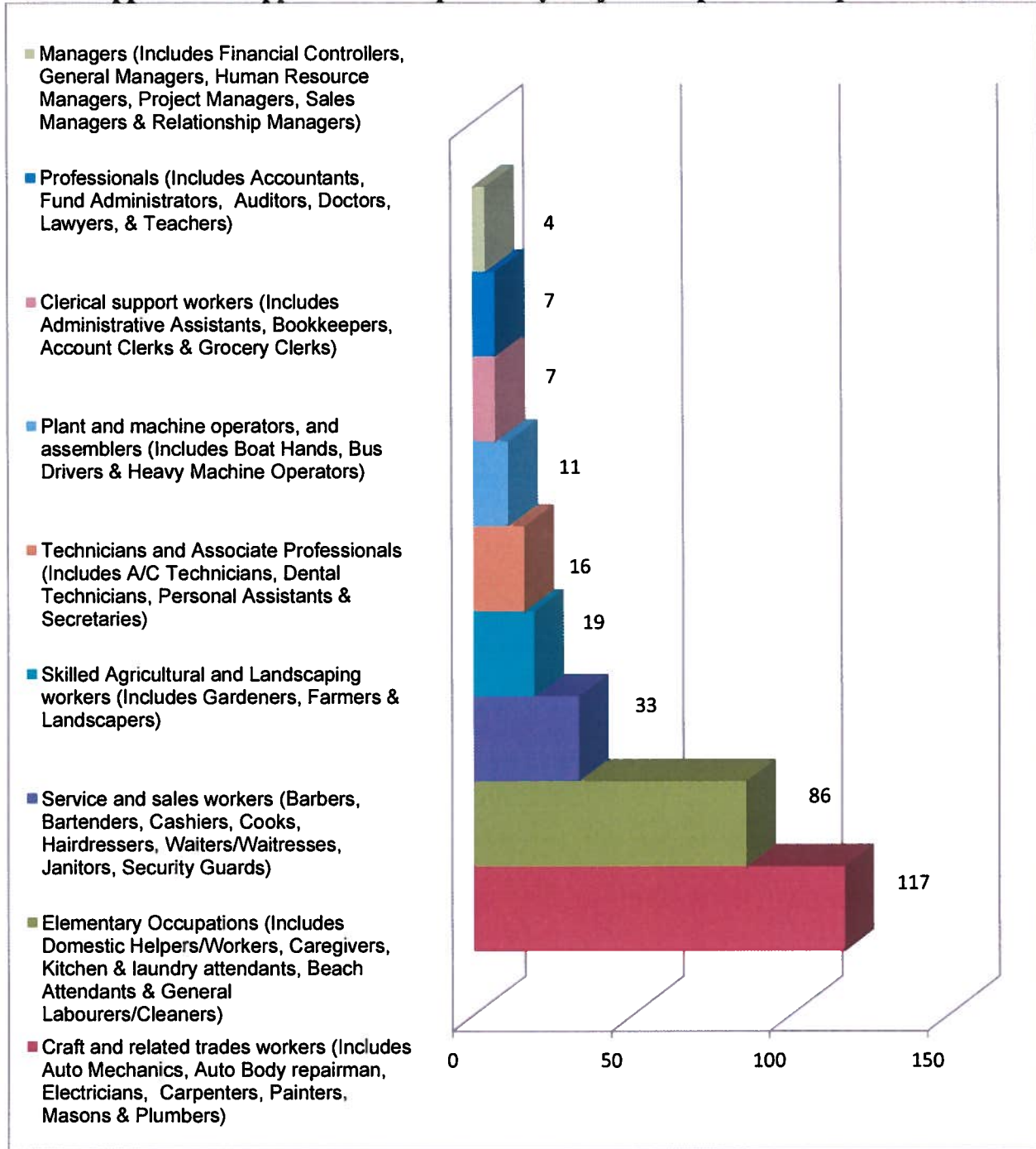


## TLEP Applications - Occupations by Major Occupation Group as at Jan 31, 2012



Total Applications Received: 401

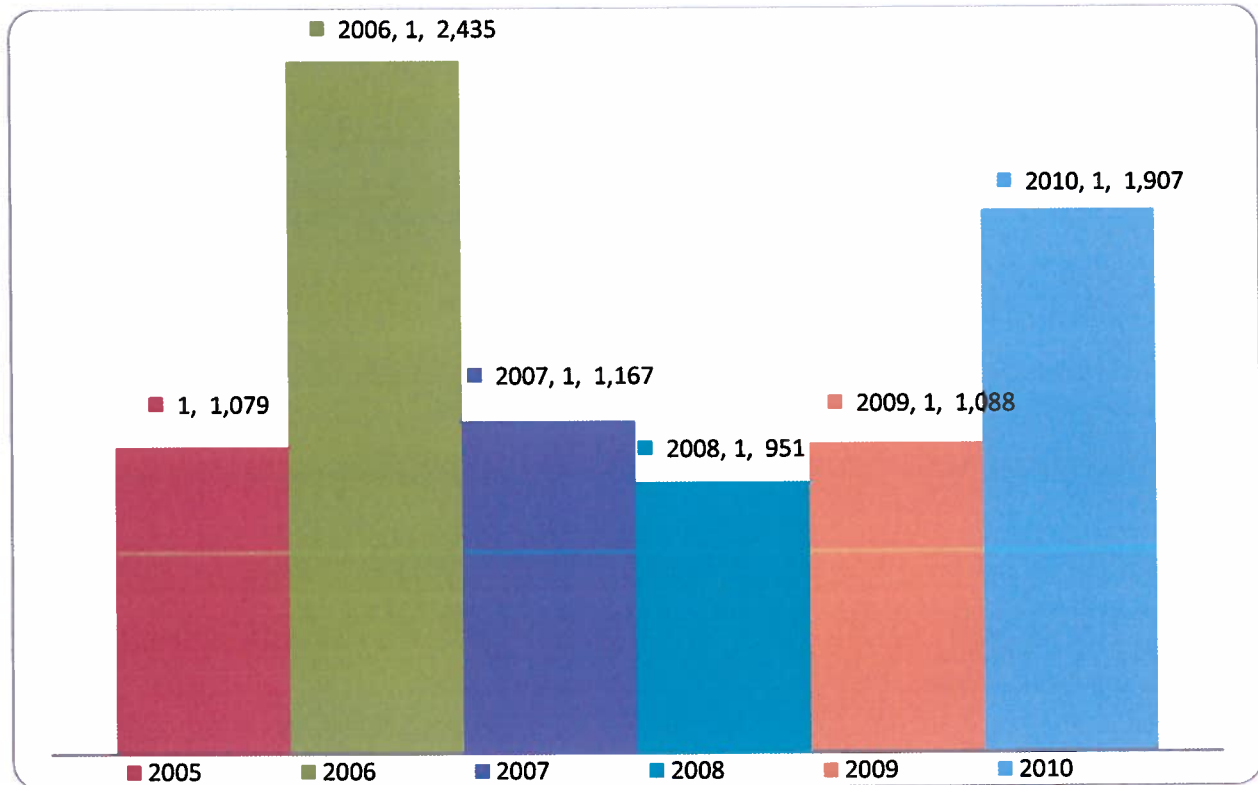
## TLEP Applications Approved - Occupations by Major Occupation Group at Jan 31, 2012



Total Applications Approved: 300

**C. WORKERS WITH FINAL WORK PERMITS ON FINAL NON-RENEWABLE WORK PERMITS**

**Number of Final/Final Non-Renewable Work Permits Issued by Boards by year**



Eight thousand six hundred twenty-seven workers (8,627) were issued final or final non-renewable work permits between 2005 and 31 December, 2010.

**D. PERMANENT RESIDENTS**

RAS	R&E (Spouse of a Caymanian)
RRD	Residency with right to work (Dependant of a Permanent Resident)
RRW	R&E (Resident 8+ years)
RSD	Residency with right to work (Spouse of a deceased Caymanian)

**Residency Certificates issued since 2006 (to 9<sup>th</sup> Feb, 2012)**

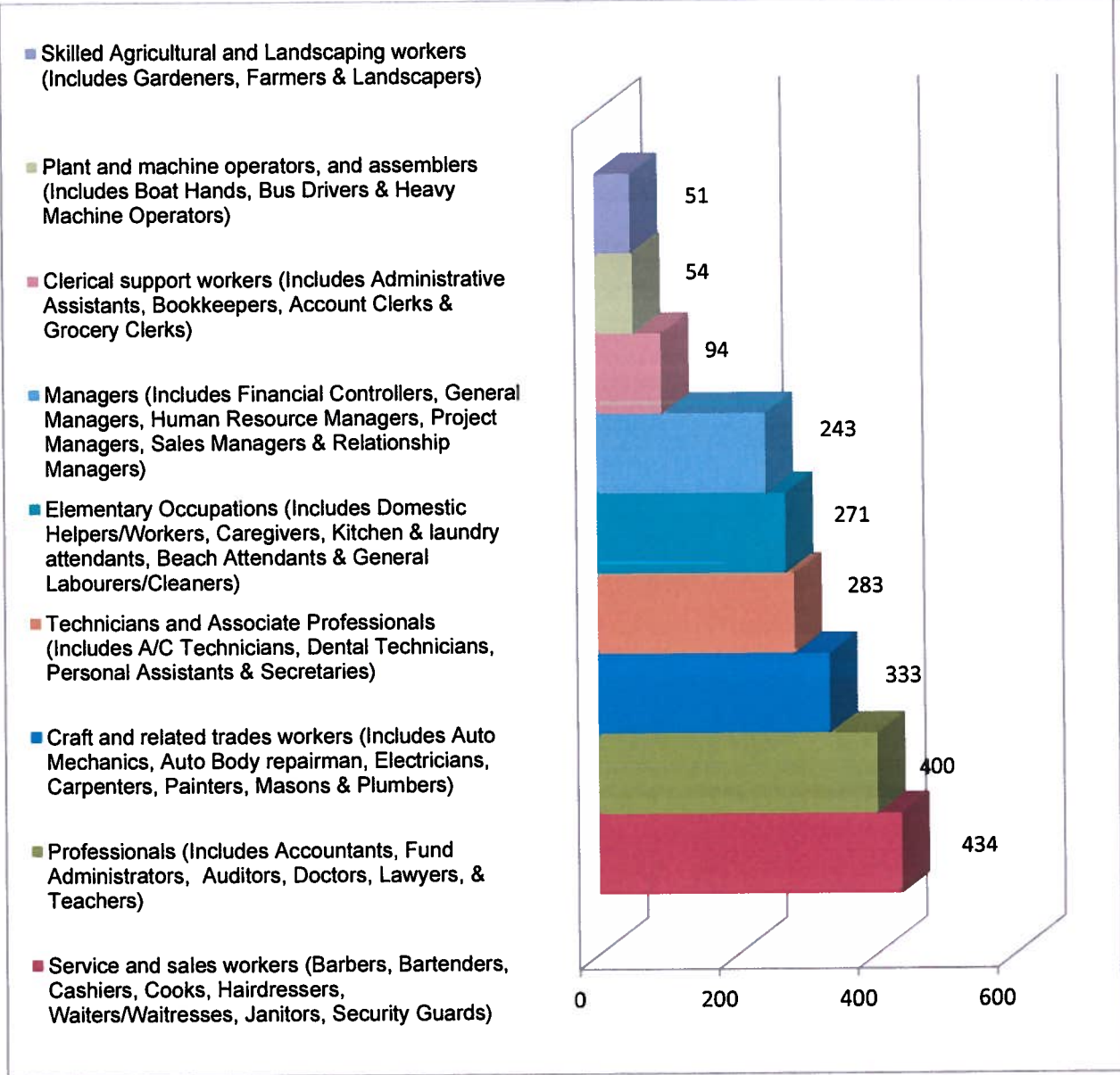
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>Total</b>
RAS	220	509	382	349	373	451	36	2,320
RRD		1	1	21	94	151	10	278
RRW	38	177	444	489	157	284	15	1,604
RSD		3	2	1	3	5	1	15
<b>Total</b>	<b>258</b>	<b>690</b>	<b>829</b>	<b>860</b>	<b>627</b>	<b>891</b>	<b>62</b>	<b>4,217</b>

Residency grants: 4,217 (Excluding Residency of Independent Means, Certificate of Direct Investment and Dependants of Caymanians).

**Top 10 Countries issued Residency grants since 2006 for RAS, RRD, RRW and RSD  
Application Types**

	RAS	RRD	RRW	RSD	Total
Jamaica	1,198	94	443	6	1,741
Honduras	359	10	65	3	437
United Kingdom	90	39	239		368
United States Of America	210	14	114		338
Canada	97	40	196	1	334
British Overseas Territories	9	4	223	1	237
Cuba	108	12	44		164
Philippines	78	14	36	1	129
Colombia	65	3	7		75
Trinidad And Tobago	22	5	30	1	58

**Total Residency grants (excluding RAS) By Major Occupation Group since 2004 (to 9<sup>th</sup> Feb, 2012)**



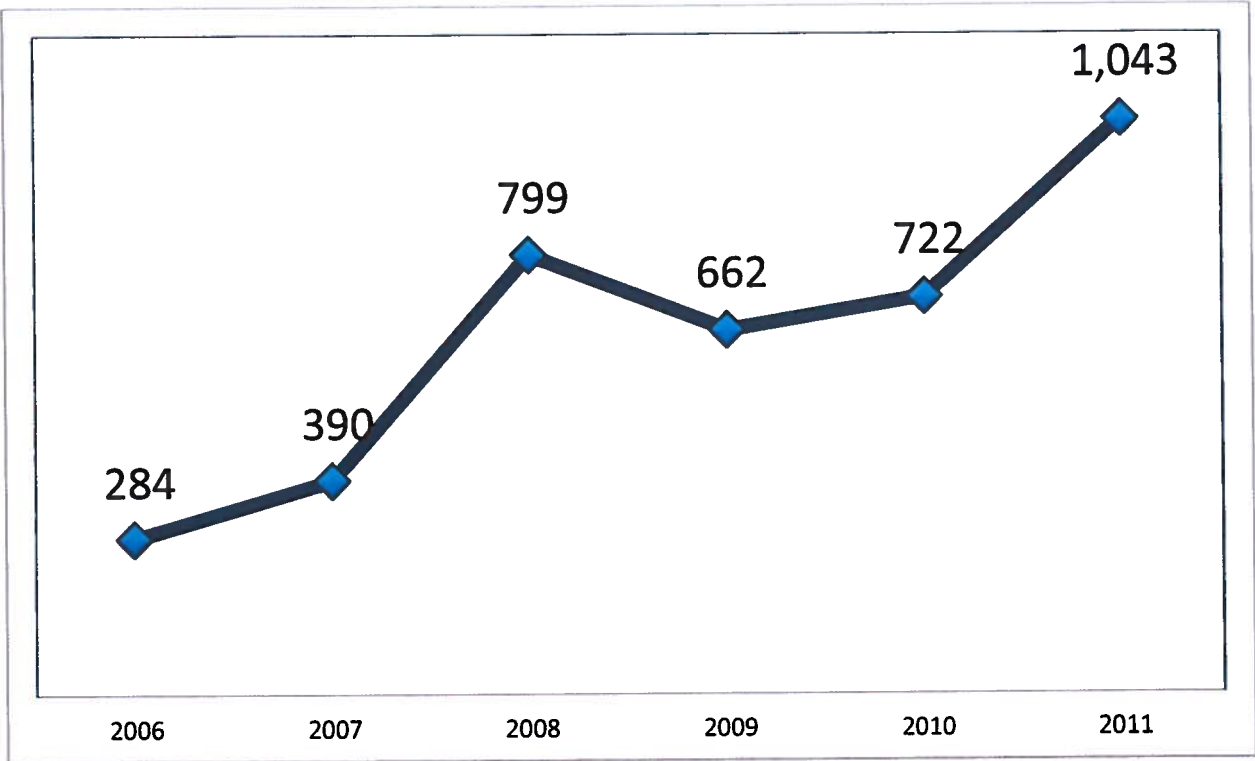
## E. CAYMANIAN STATUS/RIGHT TO BE CAYMANIANS

### Guide to Codes

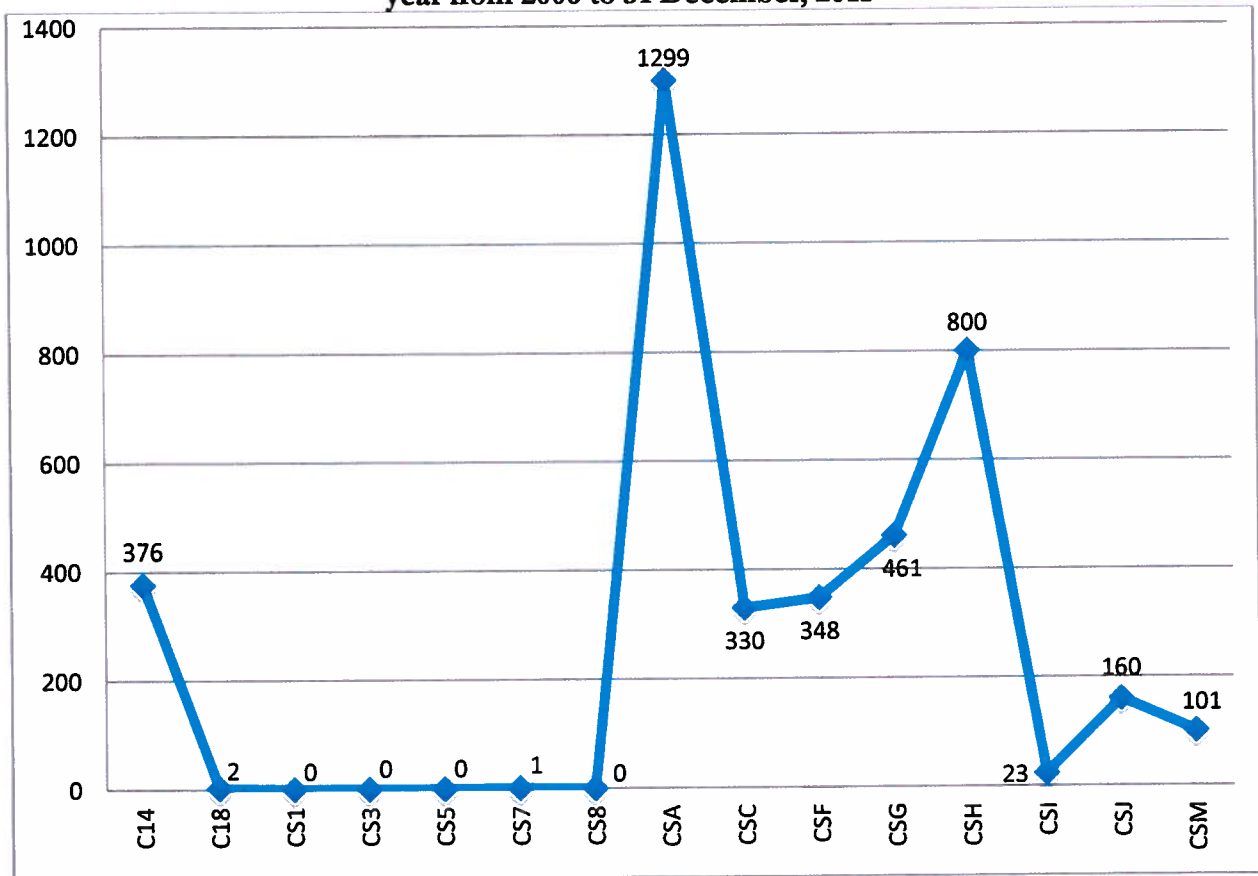
C14- C18/C19/21/22	Declaration from Board (Acknowledgement DNA Req'd)
CS1/3/5/7/8	Section 22(1), (3), (5), (7), (8) - of the Immigration Law (2003, R)
CSA	Right to be Caymanian - Acknowledgement (No DNA Req'd)
CSC	Right to be Caymanian - Continuation Up To Age 18
CSF	Right to be Caymanian - Grounds of Descent
CSG	Right to be Caymanian - Grounds of Naturalisation
CSH	Right to be Caymanian - Grounds of Marriage
CSI	Right to be Caymanian - Surviving Spouse of a Caymanian
CSJ	Right to be Caymanian - Continuation After Age 18
CSL	Right to be Caymanian - Revocation
CSM	Right to be Caymanian - Variation



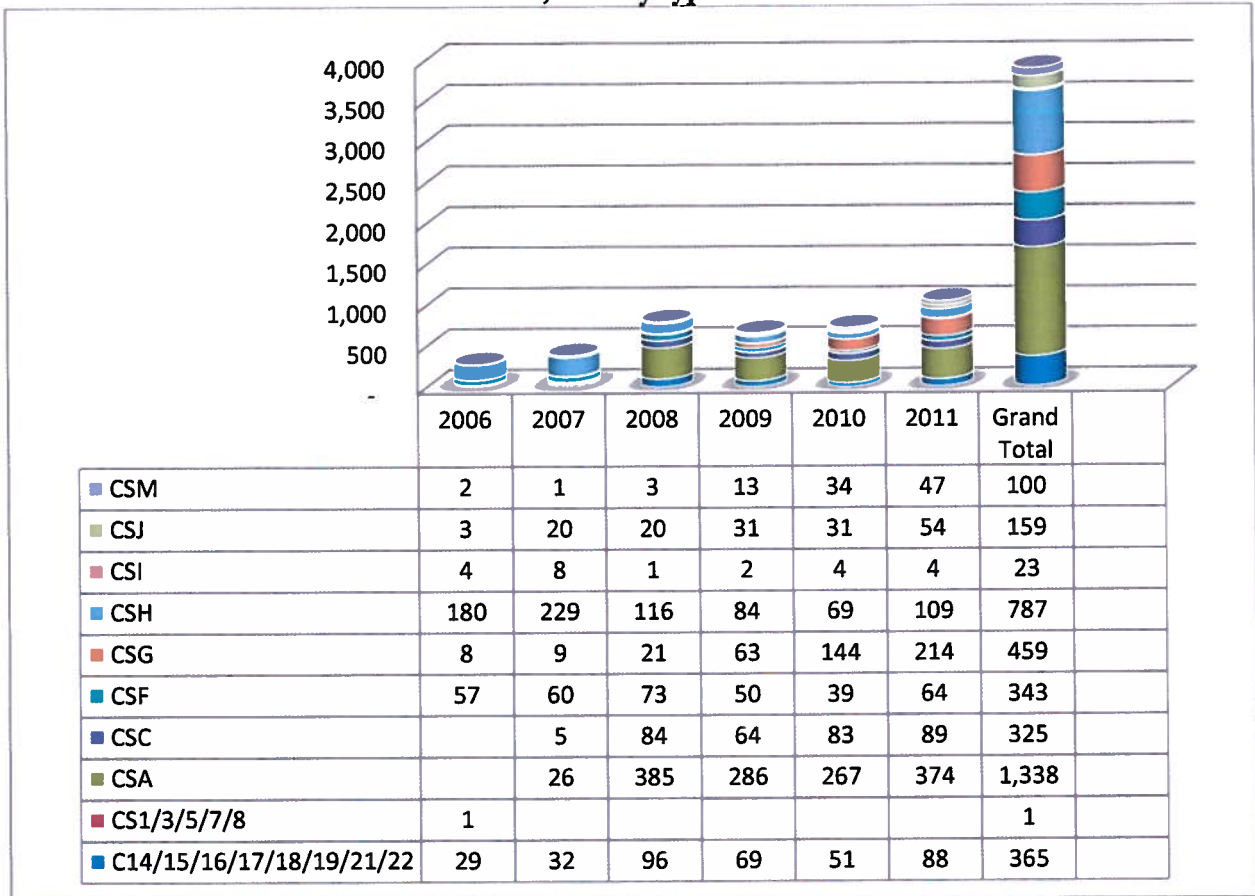
**Number of Cayman Status Approvals (now called Right to be Caymanian) issued per year from 2006 to 31 December, 2011**



**Total Number of Cayman Status Approvals (now called Right to be Caymanian) issued per year from 2006 to 31 December, 2011**

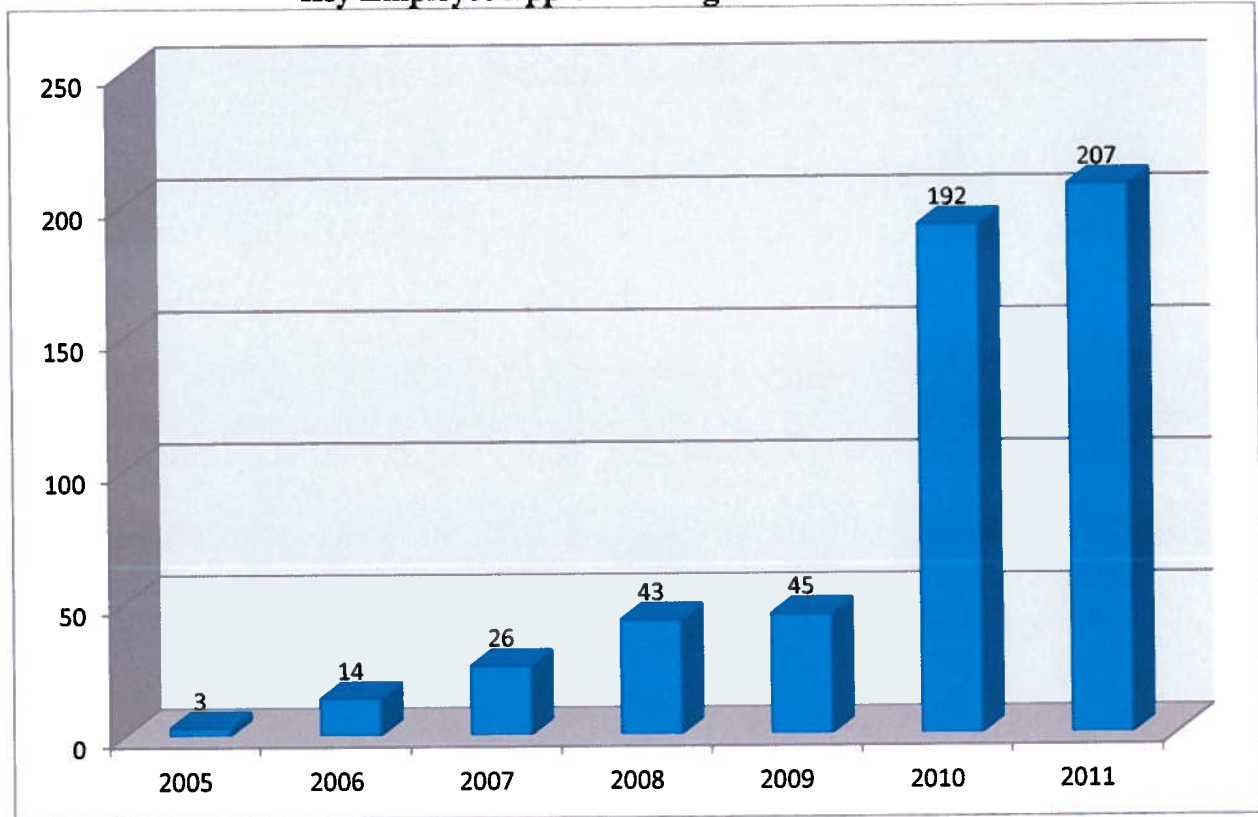


**Number of Cayman Status Approvals (now called Right to be Caymanian) issued from 2006 to 31 Dec, 2011 by type of status**

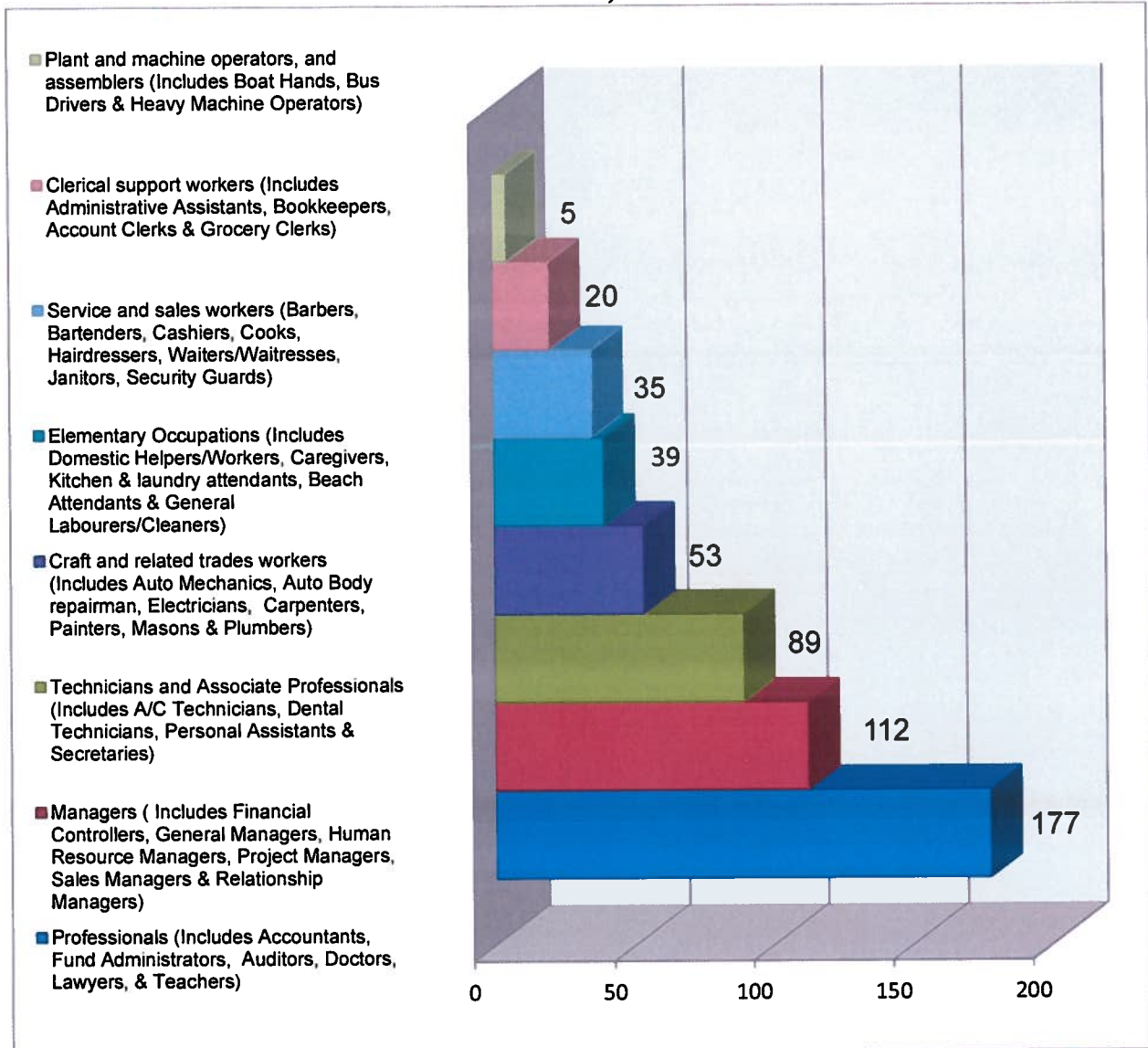


## F. KEY EMPLOYEES

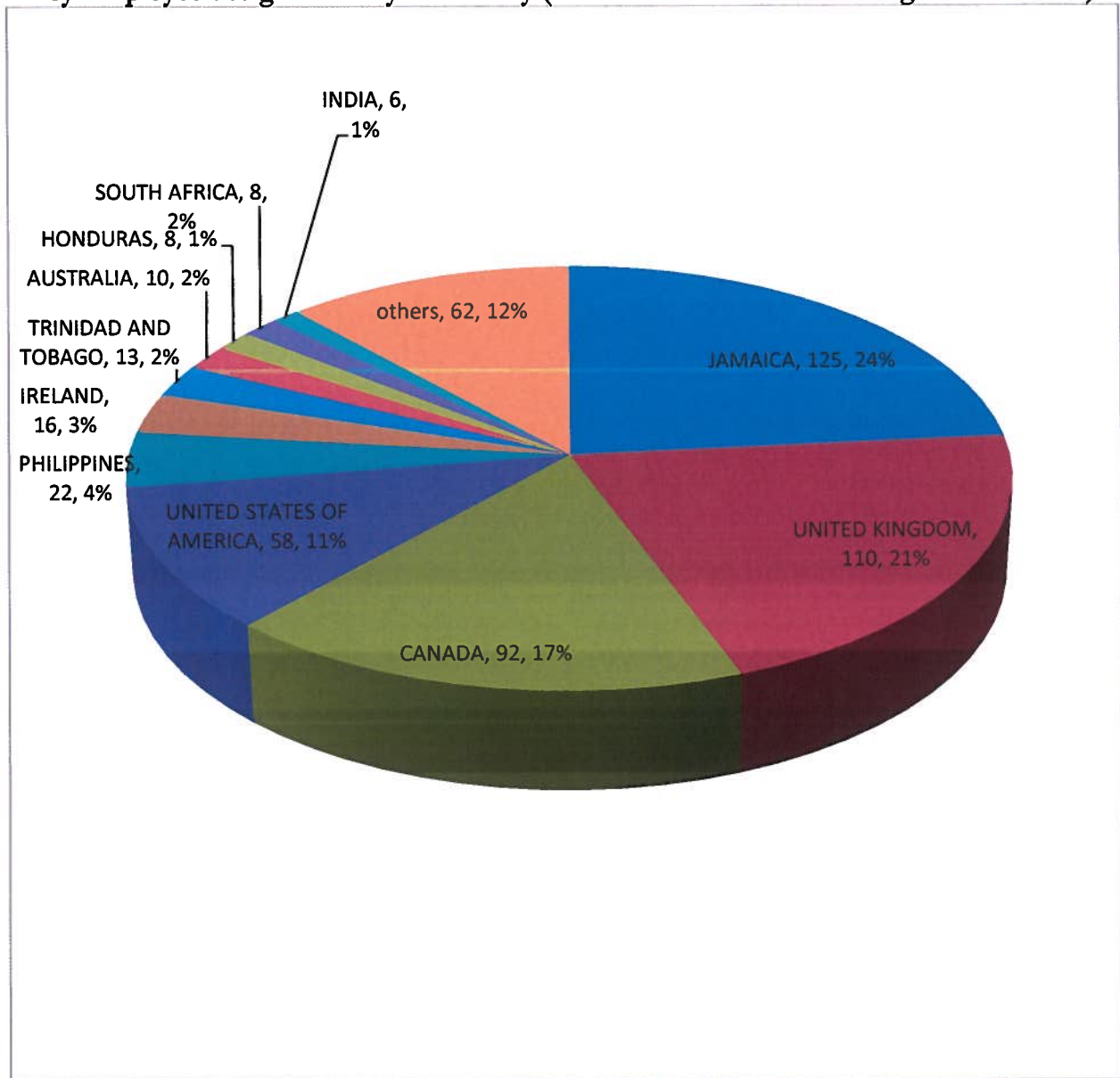
Key Employee Approvals designations from 2005



## Number of Key Employee Approvals - By Major Occupation Groups from 2005 to 31 December, 2011



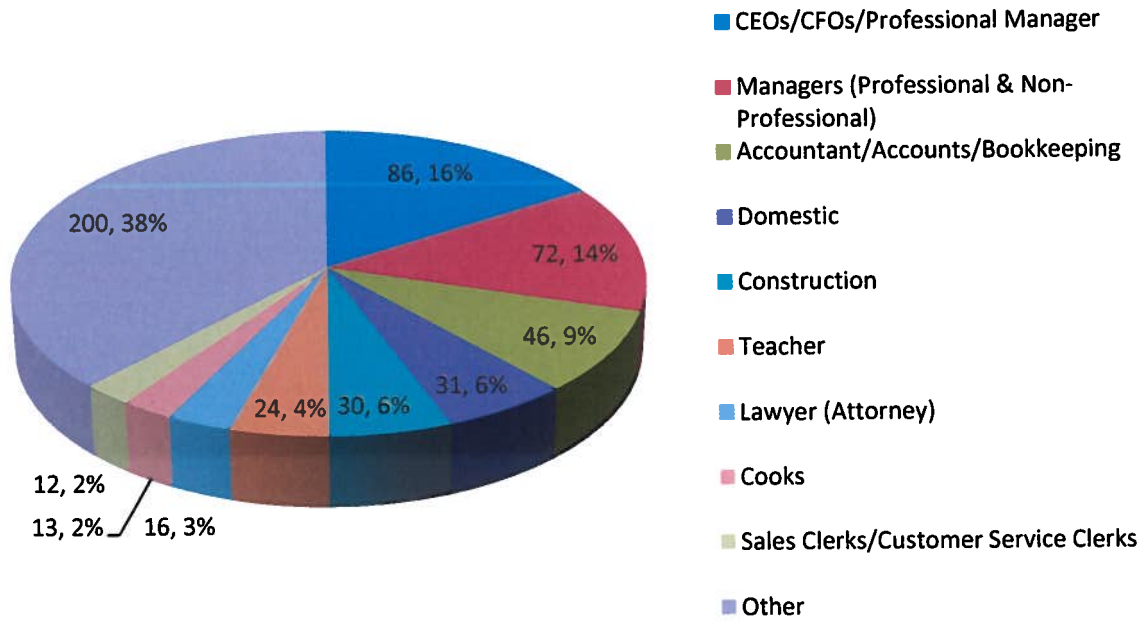
**Key Employee designations by nationality (countries with 6 or more designated workers)**



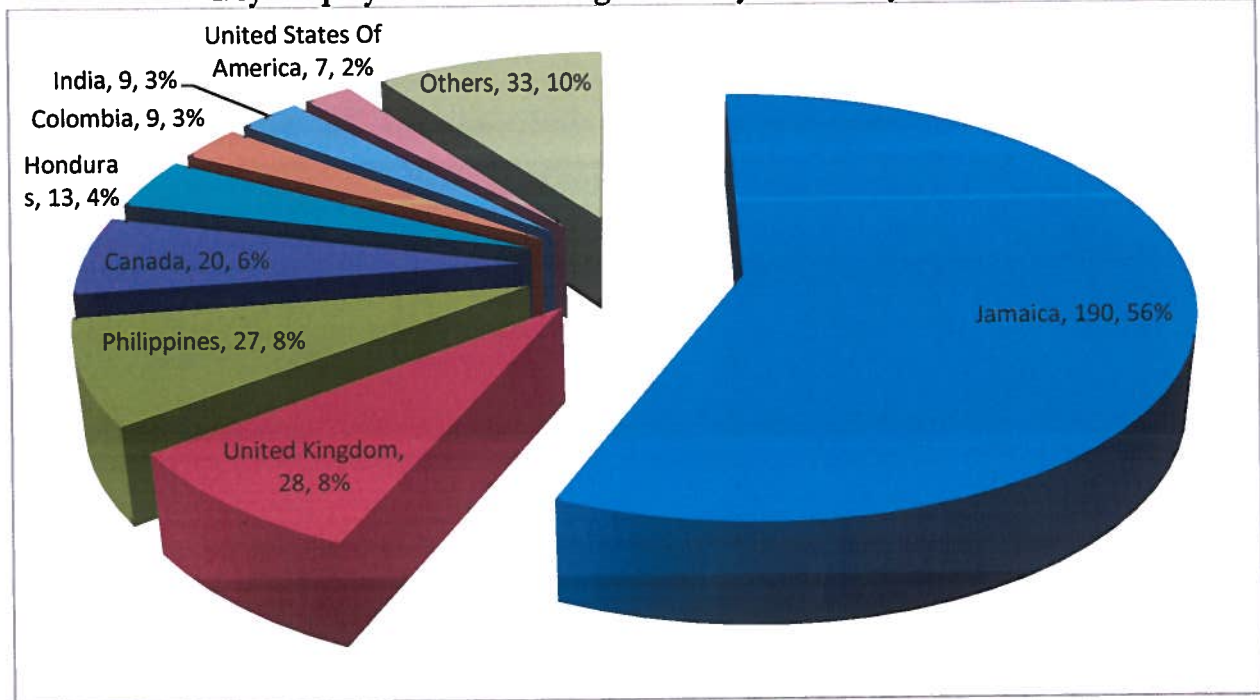
Total Key Employees: 530

Since 2005 there have been 530 'key employee' approvals in total. Of those approvals, Jamaican citizens accounted for 24% of the total figure (125 approvals), followed by United Kingdom citizens with 21% and 110 approvals.

**Key Employee occupations with the largest number of grants issued since 2009 (Top 9 occupations)**

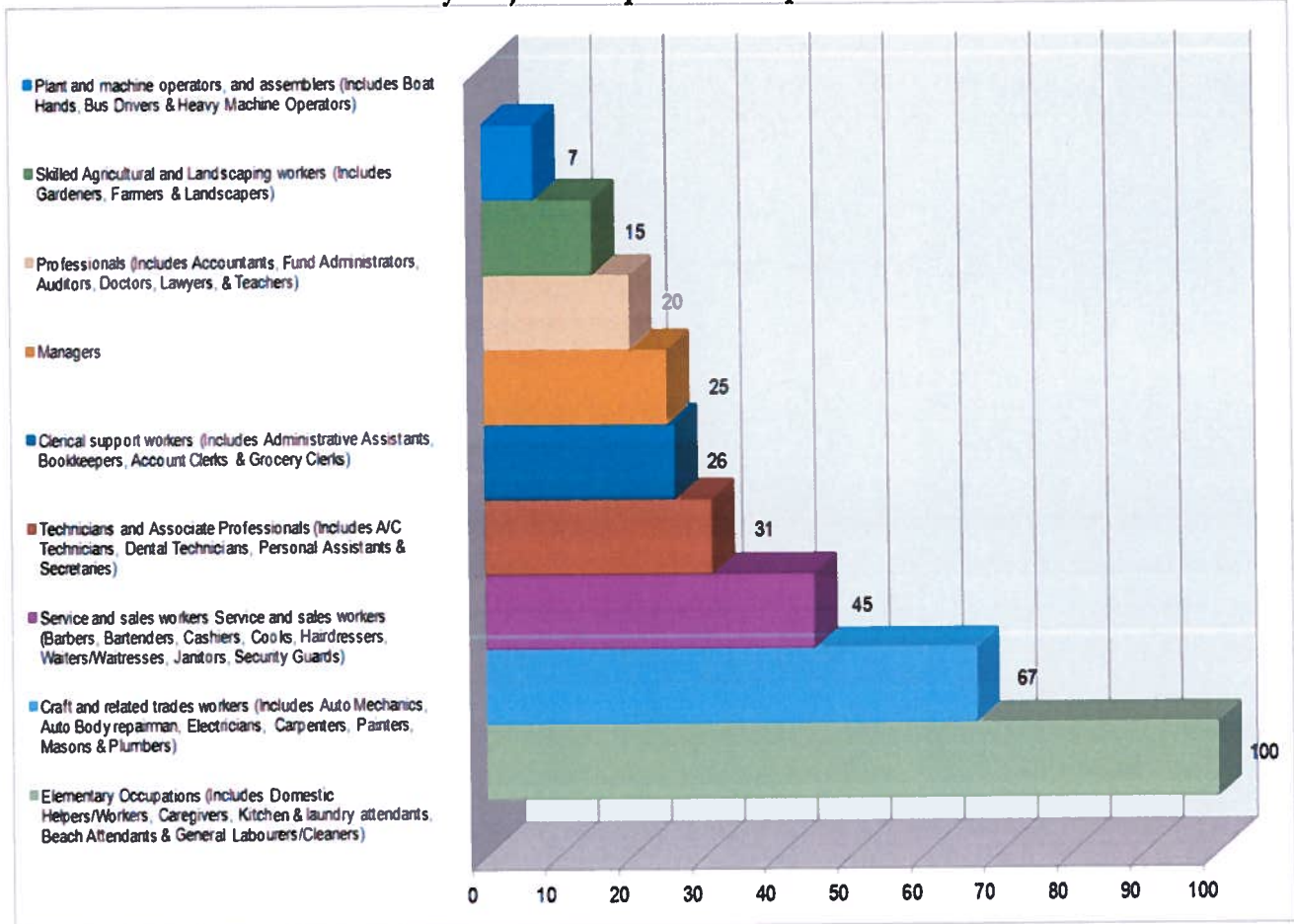


### Key Employee Refusals designations by nationality since 2009





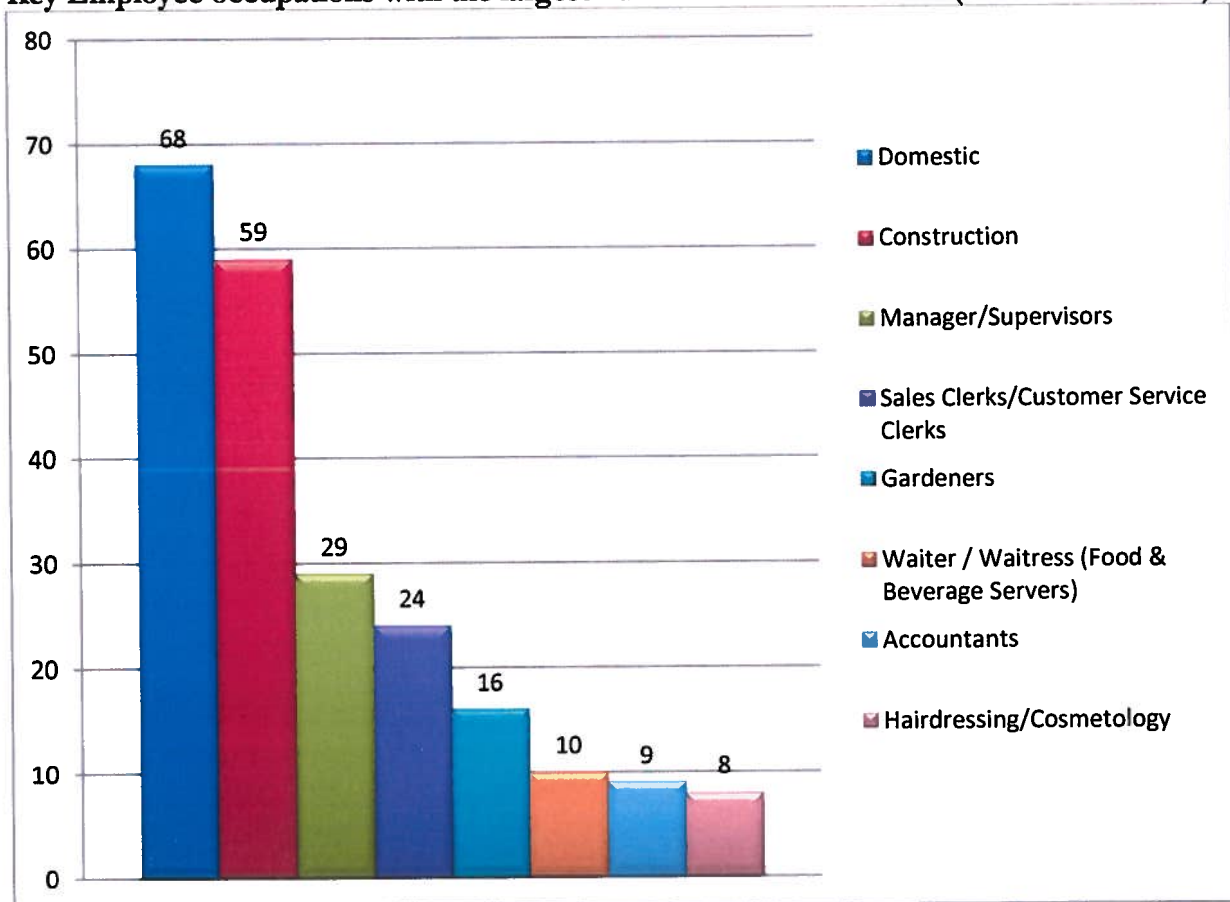
## Key Employee application refusals since 2009 to 31 December, 2011 by Major Occupation Groups



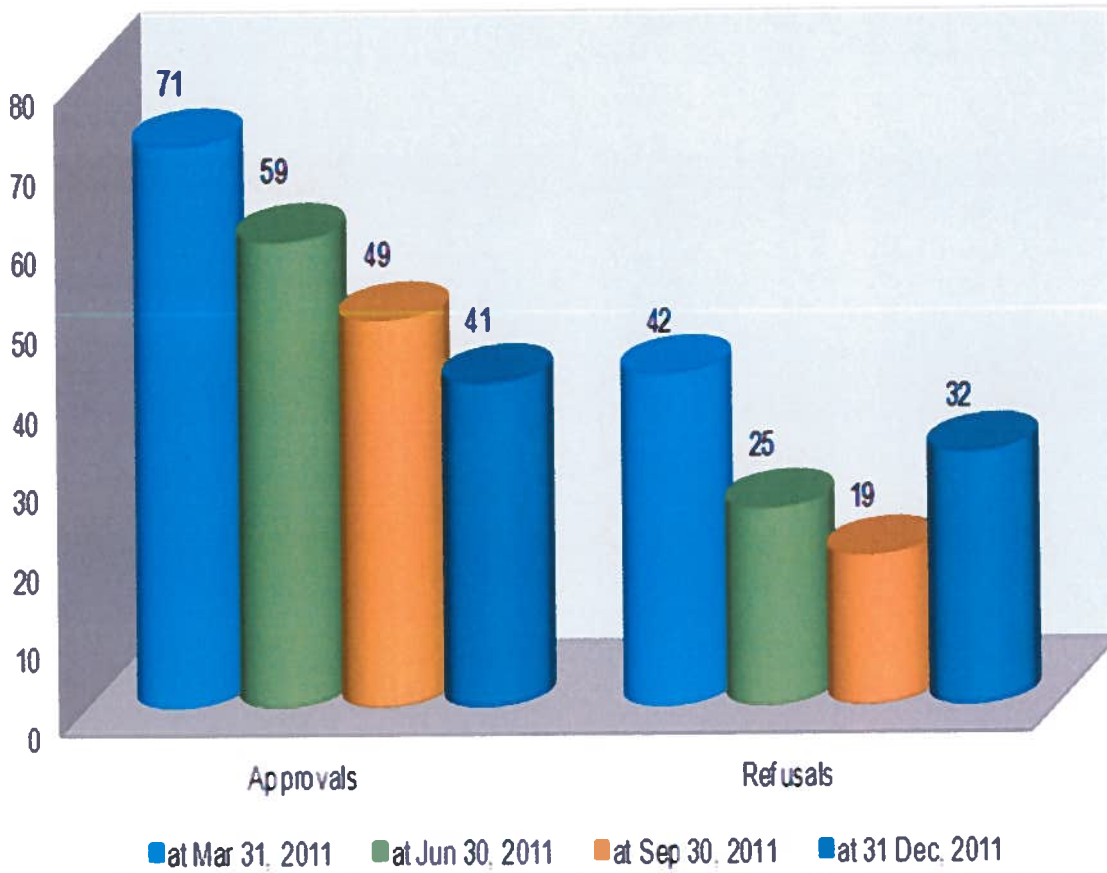
**Key Employee Refusals designations by nationality**

	Count				
	Year	2009	2010	2011	
<b>Citizen Of</b>					
<b>Jamaica</b>		39	73	78	<b>190</b>
<b>United Kingdom</b>		11	11	6	<b>28</b>
<b>Philippines</b>		7	11	9	<b>27</b>
<b>Canada</b>		4	10	6	<b>20</b>
<b>Honduras</b>		1	4	8	<b>13</b>
<b>Colombia</b>		3	4	2	<b>9</b>
<b>India</b>		3	6		<b>9</b>
<b>United States Of America</b>		2	4	1	<b>7</b>
<b>Trinidad And Tobago</b>		2	1	1	<b>4</b>
<b>Dominican Republic</b>		1	1	1	<b>3</b>
<b>Ireland</b>		1		2	<b>3</b>
<b>South Africa</b>			2	1	<b>3</b>
<b>Austria</b>			2		<b>2</b>
<b>Brazil</b>			2		<b>2</b>
<b>Costa Rica</b>			1	1	<b>2</b>
<b>Guyana</b>			2		<b>2</b>
<b>Australia</b>			1		<b>1</b>
<b>Barbados</b>			1		<b>1</b>
<b>Belize</b>		1			<b>1</b>
<b>Cuba</b>			1		<b>1</b>
<b>Ghana</b>				1	<b>1</b>
<b>Hungary</b>			1		<b>1</b>
<b>Italy</b>				1	<b>1</b>
<b>New Zealand</b>			1		<b>1</b>
<b>Nicaragua</b>			1		<b>1</b>
<b>Russia</b>			1		<b>1</b>
<b>Spain</b>		1			<b>1</b>
<b>Zimbabwe</b>		1			<b>1</b>
		<b>77</b>	<b>141</b>	<b>118</b>	<b>336</b>

**Key Employee occupations with the largest number of refusals issued (8 or more refusals)**



### Key Employee grants and refusals to 31 December, 2011

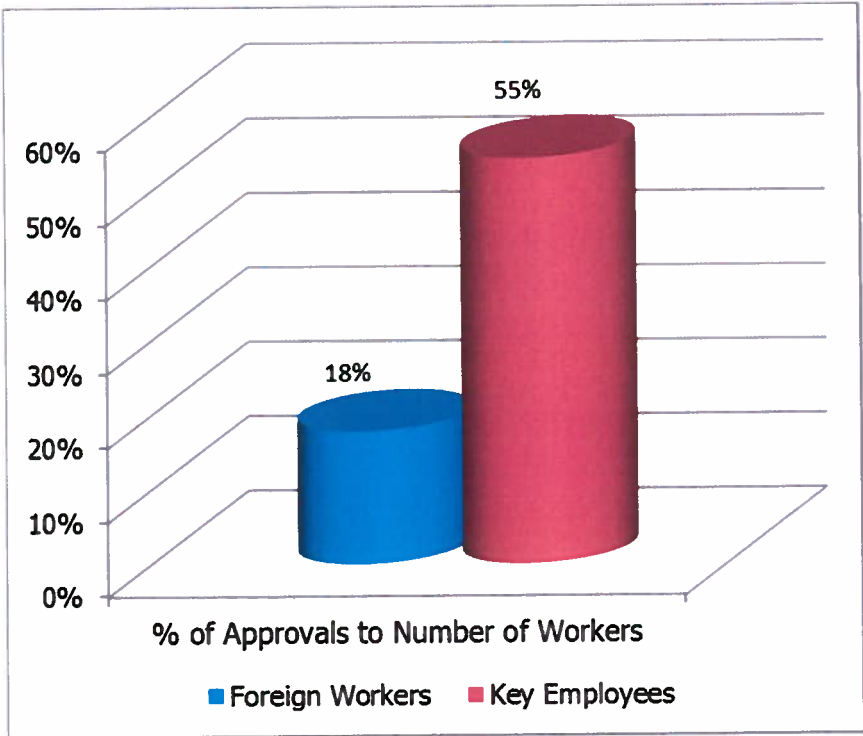


There were 220 approvals and 118 refusals from 1 January to 31 December, 2011 inclusive.

**G. SUMMARY OF IMMIGRATION RELATED STATISTICS**

**Professional Workers versus Key Employee Designation Approval**

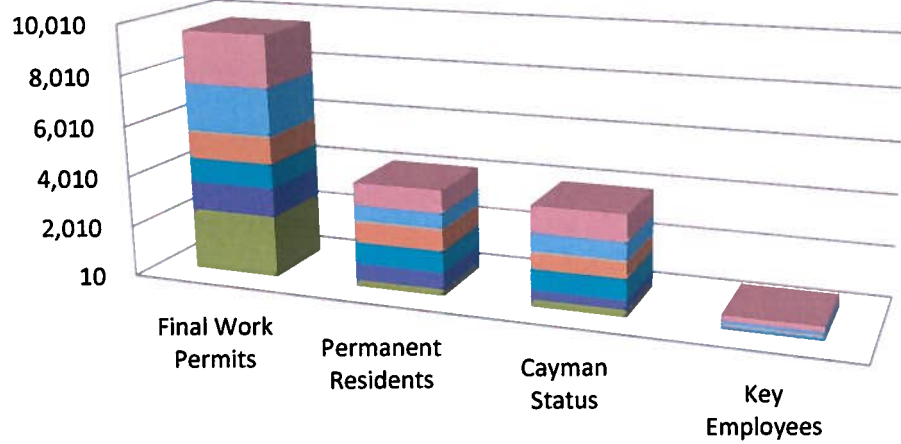
As at Dec 31, 2011	Foreign Workers	Key Employees
Number of Workers	19,927	530
Number of Professional Workers	3,545	289
% of Approvals to Total Workers	18%	55%



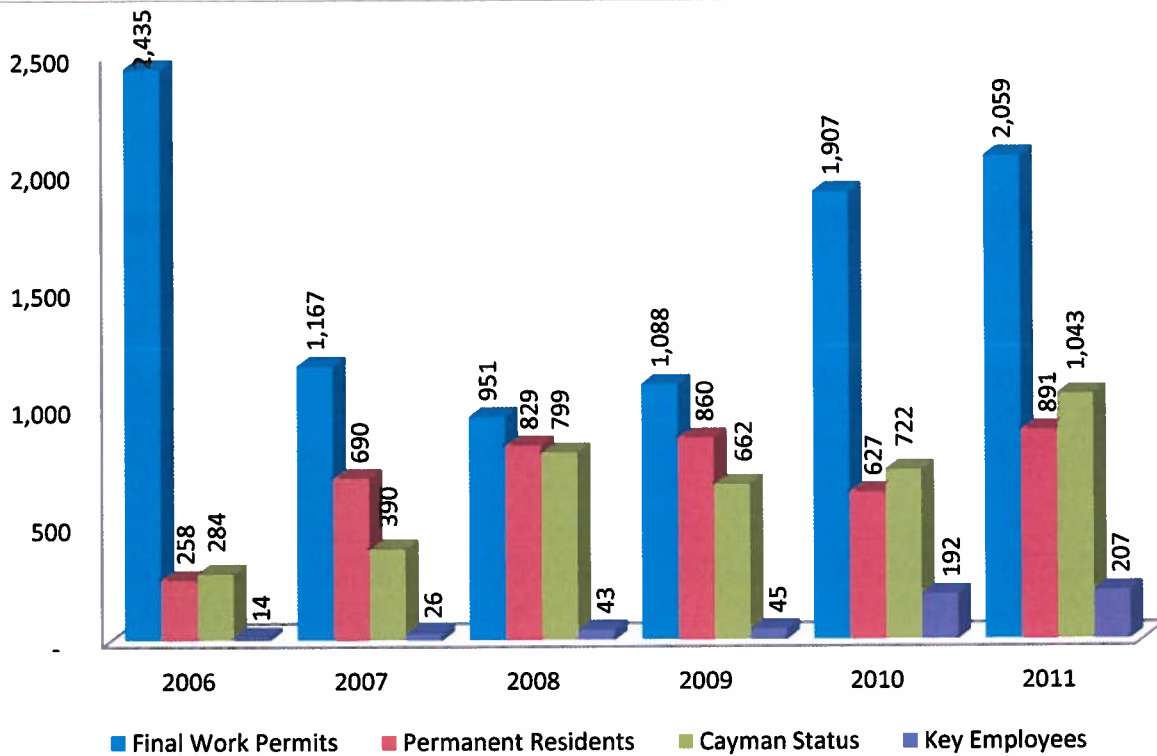
**Persons reaching the end of their Term Limit monthly: October 2011 to end 2012**

<b>Term Limit Month</b>	<b>2011</b>	<b>2012</b>
<b>Jan</b>		174
<b>Feb</b>		204
<b>Mar</b>		247
<b>Apr</b>		226
<b>May</b>		214
<b>Jun</b>		159
<b>Jul</b>		149
<b>Aug</b>		165
<b>Sep</b>		155
<b>Oct</b>	82	179
<b>Nov</b>	260	219
<b>Dec</b>	169	259
<b>Total</b>	<b>511</b>	<b>2,350</b>

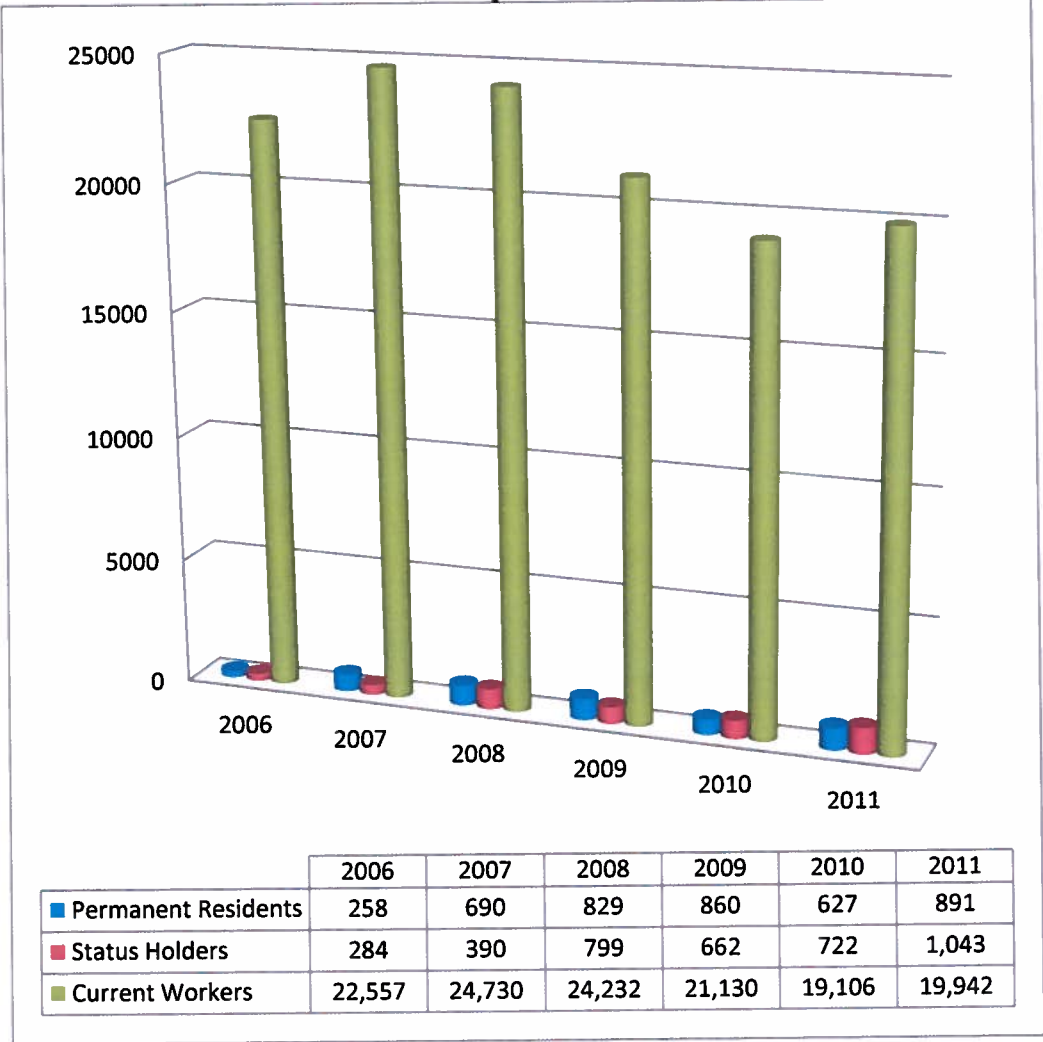
### Summary of grants issued by year



	Final Work Permits	Permanent Residents	Cayman Status	Key Employees
2011	2,059	891	1,043	207
2010	1,907	627	722	192
2009	1,088	860	662	45
2008	951	829	799	43
2007	1,167	690	390	26
2006	2,435	258	284	14



**Residents of the Cayman Islands 2006-2011**





## Appendix D – Economic Statistics of Interest

### Cayman Islands Economic Indicators, 2007 - 2011

		2011*	2010	2009	2008	2007
Inflation Rate (%)	YTD Sept	2.6	0.3	(1.5)	4.1	2.9
Trade - imports (CI\$ Millions)	YTD Sept	543.0	688.3	735.9	879.4	860.0
# Land Sales Transactions	YTD Jun	942	1,787	2,287	2,612	2,512
\$ Value of Lands Sales (CI\$ Millions)	YTD Jun	408.5	316.4	416.5	634.3	551.0
New Company Registrations/Financial Services	YTD Jun	4,844	8,157	7,863	11,861	14,232
Mutual Funds	YTD Dec	9,258	9,438	9,523	9,870	9,413
# Planning of Project Approvals	YTD Jun	387	962	1,122	1,168	1,123
# Cruise Ship Passengers ('000)	YTD Dec	1,401.5	1,597.8	1,520.4	1,553.1	1,715.7
# Stayover Tourists ('000)	YTD Dec	309.1	288.3	272.0	302.9	291.5
Unemployment Rate (%)	YTD Jun	n/a	6.7	6.0	4.0	3.8
Real GDP Growth (%)	YTD Jun	n/a	(4.0)	(7.0)	(0.7)	4.3

Notes:

\* 2011 YTD Figs as presently available

Sources:

Inflation Rate - ESO

Merchandise Trade - Customs Department;

ESO

Property Transfers and Project Approvals - Lands and Survey Department

New Company Registrations - Companies Registrar

Mutual Funds Registrations - Monetary

Authority

Visitor Arrivals - Department of Tourism

Unemployment Rate - ESO

GDP - ESO



**Department of Employment Relations**  
 Cayman Islands Government  
 2<sup>ND</sup> Floor, Royal Plaza, Cardinal Ave  
 Grand Cayman, Cayman Islands  
 Tel: (345) 945-3114 Fax: (345) 945-3115

## CLIENT REPORT: 2009-2011

Work Status: ***EMPLOYED &, UNEMPLOYED***

Gender	
Female	628
Male	609
<b>Total:</b>	<b>1237</b>

Immigration Status	
Caymanian	713
Permanent Resident	273
Status Holder	251
<b>Total:</b>	<b>1237</b>

Education Level	
Associate Degree	57
Bachelor's Degree	109
Certificate	81
Doctorate	2
High School or Equivalent	6
High School Diploma	445
Less than High School	132
Master's Degree	29
Other	6
Professional	19
Some College	285
Some High School	6
Technical /Vocational	60
<b>Total:</b>	<b>1237</b>

Age Group	
Under 18	42
19-25	317
26-35	344
36-45	285
46-55	171

Age Group	
55+	78
<b>Totals:</b>	<b>1237</b>

**UNEMPLOYED (REGISTERED FROM 2009-2011)**

**Work Status:** *Unemployed*

Gender	
Female	342
Male	300
<b>Total:</b>	<b>642</b>

Immigration Status	
Caymanian	379
Permanent Resident	123
Status Holder	140
<b>Total:</b>	<b>642</b>

Education Level	
Associate Degree	30
Bachelor's Degree	53
Certificate	49
Doctorate	1
High School or Equivalent	4
High School Diploma	242
Less than High School	62
Master's Degree	15
Other	3
Professional	9
Some College	143
Some High School	5
Technical /Vocational	26
<b>Total:</b>	<b>642</b>

Age Group	
Under 18	35
19-25	192
26-35	168
36-45	106
46-55	104
55+	37
<b>Totals:</b>	<b>642</b>

**Immigration Status \* Work Status \* Education Level Crosstabulation**

Education Level	Immigration Status	Work Status						Total
		Employed	Employed but Seeking	Part-time	Unemployed	Unverifiable Status		
Associate Degree	Caymanian	12	5	1	18	1	37	
	Permanent Resident	4	1	0	6	0	11	
	Status Holder	1	2	0	6	0	9	
	<b>Total</b>	17	8	1	30	1	57	
Bachelor's Degree	Caymanian	31	5	1	23	1	61	
	Permanent Resident	5	1	0	11	0	17	
	Status Holder	10	1	1	19	0	31	
	<b>Total</b>	46	7	2	53	1	109	
Certificate	Caymanian	17	2		25	1	45	
	Permanent Resident	6	1		14	0	21	
	Status Holder	4	0		10	1	15	
	<b>Total</b>	27	3		49	2	81	
Doctorate	Caymanian	1			0		1	
	Permanent Resident	0			1		1	
	<b>Total</b>	1			1		2	
High School Diploma	Caymanian	98	20	5	174	7	304	
	Permanent Resident	42	2	1	31	2	78	
	Status Holder	16	8	0	37	1	62	
	<b>Total</b>	156	30	6	242	10	444	

Education Level	Immigration Status	Work Status					Unverifiable Status	Total
		Employed	Employed but Seeking	Part-time	Unemployed	Unverifiable Status		
High School or Equivalent	Caymanian	2			2			4
	Permanent Resident	0			1			1
	Status Holder	0			1			1
	Total	2			4			6
Less than High School	Caymanian	16	4		27	5		52
	Permanent Resident	25	2		21	1		49
	Status Holder	14	3		14	0		31
	Total	55	9		62	6		132
Master's Degree	Caymanian	6	0		8	0		14
	Permanent Resident	3	1		5	1		10
	Status Holder	2	1		2	0		5
	Total	11	2		15	1		29
Other	Caymanian	0	0	1	2			3
	Permanent Resident	0	1	0	0			1
	Status Holder	1	0	0	1			2
	Total	1	1	1	3			6

Education Level	Immigration Status		Work Status					Total
			Employed	Employed but Seeking	Part-time	Unemployed	Unverifiable Status	
Professional	Immigration Status	Caymanian	4	0			4	8
		Permanent Resident	0	1		1	2	2
		Status Holder	3	2		4	9	9
	Total		7	3		9	19	
Some College	Immigration Status	Caymanian	69	12	1	84	2	168
		Permanent Resident	23	4	0	22	1	50
		Status Holder	27	3	0	37	0	67
	Total		119	19	1	143	3	285
Some High School	Immigration Status	Caymanian			1	2		3
		Permanent Resident			0	1		1
		Status Holder			0	2		2
	Total		0	0	1	5	0	6
Technical/Vocational	Immigration Status	Caymanian	0	2	0	10	0	12
		Permanent Resident	16	4	1	9	1	31
		Status Holder	9	0	0	7	1	17
	Total		25	6	1	26	2	60



STATISTICAL COMPENDIUM 2010

**Population Growth in Census Years, 1802 - 2010**

<b>Year</b>	<b>Resident Population</b>	<b>Annual Growth</b>	<b>Percent Growth</b>
<b>1802</b>	933		
<b>1891</b>	4,322	1.7	363.2
<b>1911</b>	5,564	1.3	28.7
<b>1921</b>	5,270	(0.5)	(5.3)
<b>1934</b>	5,930	0.9	12.5
<b>1943</b>	6,690	1.0	12.8
<b>1960</b>	8,511	1.4	27.2
<b>1970</b>	10,068	1.7	18.3
<b>1979</b>	16,677	5.8	65.6
<b>1989</b>	25,335	4.3	51.9
<b>1999</b>	39,410	4.5	55.6
<b>2010*</b>	54,397	3.0	38.0

## Appendix G – Summary of Individual's Views on the Term Limit Policy

- Number of respondents - 761
- 60% of the respondents were women with men making up 40%
- The monthly income of respondents were
  - 7% earned between 0 – 1,999
  - 81% earned between 2,000 – 8,999
  - 12 earned between 9,000 – 20,000+
- Country of origin
  - Cayman Islands = 36%
  - United Kingdom = 14%
  - Jamaica = 12%
  - United States = 10%
  - Canada = 10%
  - Others = 18%
- Immigration Status within the Cayman Islands
  - Caymanian/Caymanian by grant/spouse/dependant = 53%
  - Work Permit Holder = 20%
  - Government Contracted Worker = 16%
  - Other = 11%
- Immigration Status within the Cayman Islands
  - Caymanian/Caymanian by grant/spouse/dependant = 53%
  - Work Permit Holder = 20%
  - Government Contracted Worker = 16%
  - Other = 11%
- Sector/Industry in which Respondent Worked
  - Public Sector/Civil Service = 34%
  - Accounting/Financial = 25%
  - Tourism = 10%
  - Education = 9%
  - Other = 22%



- What professional impact has rollover had on you (% of respondents answering the question)?
  - No Impact – 76%
  - Less training – 8%
  - Lost a job – 6%
  - Got a job – 6%
  
- What economic impact has rollover had on you (% of respondents answering the question)?
  - No impact – 56%
  - Lost money on personal property – 20%
  - Reduced salary – 20%
  - Lost money on local investment – 17%
  
- How did the introduction of the term limit on work permits (rollover) impact your social life (% of respondents answering the question)?
  - Friend left the island when they were rolled over – 64%
  - Acquaintances left the island when they were rolled over – 51%
  - No social impact – 22%
  - Less diverse community – 21%
  
- To what extent do you believe that the rollover should be kept (% of respondents answering the question)?\*
  - It should be discarded – 52%
  - It should be kept as is – 19%
  - The period after which people must leave should be shortened – 14%
  - The period after which people must leave the island should be lengthened – 15%

\*It should be noted that a total of 384 Caymanians answered this question and provided the following answers:

- It should be discarded – 89 or 23%
- It should be kept as is – 103 or 27%
- It should be modified in some way – 118 or 31%
- Provided no answer – 74 or 19%

## Appendix H – Summary of Businesses Views on the Term Limit Policy

- 97 responses
- Respondents were primarily owners, executives or senior management
- The two largest industries /segments that responded were :
  - Tourism and Hospitality (40.5%)
  - Accounting and Finance (24.1%)
- Approximately 70% of the respondents represented companies with less than 50 staff in Cayman
- 55% of the respondents globally represented organization of less than 50 people
- The most important factors affecting their decision to grow their business in Cayman are as follows:
  - Cost of doing business (92.3%)
  - Global economic conditions (87.3%)
  - Reputation of the Cayman Islands (86.7%)
  - Cost of work permits (85.5%)
  - Term limit (rollover policy) (81.2%)
  - Cost of annual government fees (80.4%)
  - Security (72.4%)
  - Challenges in obtaining “key” employee status (72.0%)
- The financial impact of the term limit (rollover) policy has had on the respondent businesses were as follows:
  - Over 55% have seen an increase in their operating costs
  - Over 57% have seen their overall profit margins decline, and
  - Over 57% have seen their overall productivity reduced
- The impact of the term limit (rollover) policy has also had the following negative impact on the respondents’ businesses:
  - Negatively impacted recruitment
  - Reduced the number of customers
  - Poor office morale
  - More tension in the work place (Caymanian vs. expat)

## Appendix I – Views from persons on the extent to which the Rollover should be kept

1. If the work permit system was working correctly (i.e. Caymanians were given the jobs before expats) then there would be no need for a rollover. If the education system was more focused on training Caymanians for the jobs available in Cayman then they would be more likely to get the jobs and keep them. If expats are contributing to society (i.e. working and not being arrested) then why make them leave?
2. The rollover should be kept and the provisions in the law with respect to key employees need to be more carefully enforced. As it stands, anyone get apply for key which is not what the law originally intended. A close look at those provisions will show it was drafted to assist the higher skilled positions required for a robust financial centre.
3. The objectives of roll over can be met by reducing the time the individual has to stay away to say 3 months as it disrupts families that for instance have kids who have started going to school in Cayman. One cannot also even start on working on long-term plans however much they love the island which is a great place to be in. Therefore we end us expatriating all our earnings.
4. There need to be controls but perhaps it would be better to keep people you know and trust. Not sure if it is possible to have them sign some sort of agreement that they will not apply for status - although if they have been here for years - say 25, is it fair not to allow them to stay since this will then be their home?
5. If the term limit is a legal way of staying on the island for more than 7 years than there must be a permanent solution to the rollover, e.g. people can stay as long as they are needed w/out the right of PR or becoming a Status holder. This would improve investment, medical services, community services, welcoming environment.
6. A 7 year term limit is ridiculous if you cannot apply for permanent residency before 8 years. What's the point of investing in the community if the chance of become a part of it is impossible? Also if given a fair chance to settle here and make a contribution to the society most may opt to build the community, but for fear of never being accepted or being equal most regardless of nationality will continue to extract as much as they can from Cayman and leave for the next thing. Cayman needs builders not travelers.
7. Much of this raises technical legal issues. Populism is no way to determine what the answers are. There is a risk that human rights considerations will mean that anyone here for more than 5 years will be able to demand Naturalisation under the British Nationality Act.
8. Discard and set up robust but fair residency
9. Rollover time should be less than a year, since the community is familiar with these persons.
10. We must be prepared to treat different categories of worker differently. Provided it is in conjunction with an accreditation type system that seeks to reward the positive treatment of Caymanians whilst penalising the negative - a policy which effectively exempts professionals and other skilled/trained personnel whilst is more strictly enforced on others who are in fact very easily replaceable (maintenance staff, gardeners, dive masters, helpers, wait-staff etc. - with allowance for truly special cases) is very workable. Please be careful - a functioning

society for my children and the preservation of any real future for the Caymanian people depends on what you determine. The system works for Cayman. That it is inconvenient for some expats and businesses (particularly those who fail in their obligations to provide opportunity to or train Caymanians) should be a secondary consideration. The system would be much more workable were fees to be reduced to sensible levels. The cost of applying for Key employee is the main problem. I have however never seen a properly formulated deserving Key employee application denied - and I challenge you to find obvious examples where this has happened.

11. Remain as-is in terms of 7 year, however opportunity to become citizens should be more available than current conditions.
12. I believe the rollover policy was a polite way to allow certain foreign workers to leave the island who were sub-par workers or immoral individuals. There are other people who are a tremendous asset to the island who are also impacted by the policy as it has been and forced to leave when they would be better kept here.
13. It needs to be fairly and equally enforced. Professionals and others who are genuinely involved in the training and provision of opportunity to Caymanians should be exempted. Anyone who can be readily replaced should be rolled over.
14. Should be able to stay if you've completed 15 yrs.
15. Should depend on the type of work or position that requires the permit.
16. My humble opinion term limit exercise was a complete failure and was only a ruse by the politicians to garner votes, and has actually set Caymanians further back. I recall myself in the same boat as the young Caymanians of today and have heard all the excuses and boo hooing about not getting a job because of the expats. Because I made the same comments when I was a youth in Canada and the Indo-Asians were having a huge impact on the local job market. That was when I realized, that I needed more education to compete for a job in my own country.
17. The ability to get Key Employee designation / PR should be increased
18. The Caymanian training aspect of business staffing plans must be REALLY enforced.
19. Is there a way that an individual could sign an affidavit that would exempt that person from gaining status/citizenship?
20. It should be kept as is but should be monitored carefully.
21. Extend it and allow those that want to apply for residency to do so and that decision can be based on the various criteria as it is laid down now.
22. Find an alternative. Ensure training & succession plans.
23. Or allow for exempting with certain criteria ( i.e. investments)
24. I understand why you have it in first place, but case-by-case should be assessed in individual basis put a residence card in place for people would meet certain requirements after ten years and after 20 year full Caymanian status.
25. It should be seriously re-considered and adjusted or scrapped as it is one of the major reasons that the economy is struggling.

26. I believe the rollover policy should be removed along with the right to citizenship. Residences should be allowed to stay as long as they are supporting themselves and are not a burden to society, citizenship should awarded to an individual with a Caymanian parent.
27. If key employee status was more readily available then rollover should be kept for others.
28. I think Cayman should follow whatever method England, USA, Canada has put in effect for expatriate. However if Caymanians wants to control their population, then the rollover has to stay but lengthened the time period.
29. Having an employee for 10 years to maximum 15 is quiet sufficient to employer. You can't keep employee stagnant in one place for ever. That's enough time to get someone else either from the same country to train to take their place. Expatriates and businesses are asking too much of the Caymanians.
30. Discard it and increase # of years for permanent residency.
31. Ex-pats naturally retire back in their home-land and so term-limits served no real purpose
32. Should be kept to some extent
33. A normal work permit grant would be for 1-2 years with renewals with a maximum of time up to 5 years after which the individual must leave the island without delay for a period of two (2) years. After that, the individual may return and start afresh.
34. We should keep the rollover policy, with these changes. The period after which people must leave should be shortened (5) yrs and the before returning should be lengthened (3) yrs.
35. The break in stay should be returned to two (2) years.
36. Term limited should be shorter and key employees should be discarded- this is discrimination against Caymanians. Caymanians should be able to find employment in Cayman then work permits are issued for the surplus of jobs.
37. Not sure what "as is" means - period should be at least 7 years with at least one year off island
38. Reduce to minimal break - 3 months at most. Also Key Employee Status should be completely discarded.
39. The current system is not feasible. It needs revision and constructive debate so the best applicable solution can be chosen.
40. A balance must be obtained to ensure the Caymanian interests are protected and at the same time to allow the economy to prosper.
41. It must to be administered in an equitable fashion where positive social contributors such as pastors, law enforcement etc. will not be arbitrarily rollover.
42. Rollover is irrelevant - any WP can be denied, and it is the granting of WPs that gets people on island. Rollover is just an irritation to everyone involved.
43. After 7 yrs if a person has never been in trouble with justice and has been a contributing citizen to the economy and community should be given permanent residency.
44. If cannot be discarded, term limit should be lengthened to at least 10 years instead of 7 years.
45. It should be kept, however person persons who make over \$100K per year should be given automatic key employee status and allowed to apply for PR.

46. Any policy must have at its heart the need to employ Caymanians. I know of educated, unemployed young Caymanians with no job prospects. Therefore I would say that rollover is a good thing if there are more opportunities afforded to the Caymanian population.
47. Caymanians need a chance at making a living and moving up the corporate ladder. It is unfair to put a foreigner on a work permit and have young Caymanians with degrees have to go to the back of the line to wait for a foreigner to vacate the job. That's BACKWARDS, not forward. We are the Caymanians NOT THEM, THEY MUST GO TO THE BACK OF THE LINE AND GET HIRED ONLY AND ONLY WHEN NO CAYMANIAN IS AVAILABLE OR QUALIFIED AND government has done a lousy job in not verifying that the lies told on work permit applications are filled with lies, misrepresentations and deception. They should charge employers lying on applications \$200,000. to send a ")" tolerance message about lying to government on applications and stopping Caymanians from making an honest living who may turn to crime and be a thorn to society's side.
48. Should be kept to benefit future for upcoming citizens.
49. I think it should be shorten for labourers and domestics only because this is causing extreme hardship on families and small business owners who depend on reliable, trustworthy employees to take care of their kids, elderly and smooth runny of their businesses. Yes I know there is the key employee status, but does every nanny qualify? Or just only those taking care of elderly and handicapped. What about those families that have a strong bond with their nannies - where do they fall in? I don't expect them to get PR but at least shorten the roll over time to one month as to not cause so much hardship on families who depend on these nannies. Basically you know what you have but you don't know what you will get in my humble opinion. Thanks for asking.
50. Their Term and that's it.
51. I think there are some positions that require five or more years of work experience outside of the country. I understand the theory behind the roll over. However, an organization's greatest asset is human resources...how much is lost when there is constant change in staffing due to rollover? I would never own a private business in the Cayman Islands. The cost and the struggle to keep trained and educated employees would make it almost impossible to be successful.
52. I don't need the right to vote, I just need the right to work.
53. I would love to stay longer than 7 years.
54. Roll over has a place to prevent social cost in the future (those that won't be able to support themselves) but the issue of those that might needs to be resolved better. Key employee does not work.
55. Government should ensure that businesses train Caymanians to be able to fill in/move into positions that expats currently occupy.
56. There should be an exemption for domestic nannies/elderly caregivers - those of legitimate nature.
57. Specific occupations should be looked at.

58. Rollover is not the problem - it's the lack of employment opportunities for well experienced and qualified Caymanians - my wife has been unemployed for almost 18 months yet expats continue to fill these positions. How can we support our Caymanian family!. The WP Boards and the Labour Office should be a lot more effective. There should be a register for Caymanians seeking employment with their resume's and references and work permits should not be renewed until the candidates have been interviewed and, where denied - proper explanation should be given. There is a glass ceiling which is causing growing social tensions.
59. As a civilised country, stick to UN guidelines.
60. Companies should be made to uphold training/understudy programs. Or penalties implemented.
61. The rollover has absolutely no advantage to the Cayman Islands In fact it is the reverse. Businesses have lost key employees that Caymanians cannot fill, so the businesses loose not only TOP EMPLOYEES BUT LOSE BUSINESS.
62. It should be maintained, but drastic changes are required.
63. Scrap it - then introduce a system like the States which are merit based when you meet the requirements. Force employers to hire Caymanians first as well.
64. Rollover doesn't provide additional opportunities for Caymanians; it just makes living here less desirable. It's employers AND employees who need to make the training & mentoring & progressing of Caymanians work.
65. It should be custom NOT law so the board would have discretion to apply it based on the employee's individual circumstances, not a blanket provision.
66. They should never have started it.
67. Lengthened along with, but shorter than, the period to apply for permanent residency.
68. The term limit should be should be five years with the understanding that a Caymanian should be trained and a work permit will not be given for that position unless they can truly justify why a Caymanian has not been trained i.e. an immigration audit done on the work place.
69. While I support social planning and development but it should be properly thought out over the short, medium and long-term otherwise it makes the persons involved appear to be incompetent. I don't support a rollover but rather a better system of screening and selecting applicants for citizenry. For example, if the person was unskilled and a burden while on work permit allowing that person to gain status is never going to change that. Income level, professional and work status, community involvement, honesty and integrity etc should be key criteria. Of course the system should be reviewed periodically to ensure it is robust and relevant. In addition, the persons responsible for administering should be rotated, subjected to audits and peer review to minimize corruption.
70. Replaced with transparent system that allows anyone to apply for PR.
71. Allow for skilled and professional persons to reach year 8.
72. Discarded for career goal workers domicile/adoption purposes.

73. If roll over is determined to be necessary, then it should be doctored in at the entry year so that those new to the island are aware of the regulation.
74. Do away with Key employee and allow everyone to apply for PR.
75. The period which they must be gone should be shortened to whatever the minimum legal definition is of a what constitutes a break in residency
76. Why would we want to make it so close to the Permanent Residency requirement? It should be five (5) years.
77. The period persons are required to leave for needs to be shortened to increase the likelihood of people returning to the Island.
78. What about a PR lottery system?
79. We have to keep it in place we have kids coming out of school.
80. Does one size fit all in these circumstances?
81. The whole thing should be reexamined and the public should have a greater voice in its function and implementation.
82. In order for the Island to survive and for persons to be comfortable investing in the island the policy should be discarded. Look at countries like Canada that is basically welcoming persons of a certain background to live there. I am not saying that the island should open up to such a large scale however it is my belief that the more restrictions you have the more people rebel. One option to look at is putting a salary cap for persons who would like to say here. So if you are not earning within a particular range you cannot apply for PR.
83. Forcing people to leave after giving a big portion of their working live is not a way to repay them for their time.
84. Teachers, Nurses, Doctors etc., should, even although they are government workers and the roll over does not apply. Must be given longer contracts when about to sign the second contract. Change teachers (for e.g. contract to at least 3 years and after seven years give these professionals the opportunity to apply for permanent residence).
85. I think that the Immigration Board and Government Policy makers need to understand that there is not a "one" cure all method that will solve our immigration issues. The rollover policy is very limited in the effects it has to benefit Caymanians. Many of the workers being rolled over are employed in fields that Caymanians consider themselves "too good to be working in".
86. As long as the companies want the employee's services, then they can stay to whatever they want. That's why there's a different board for residency if they want to be residents.
87. I think individuals with professional qualifications, who invest in Cayman and contribute to society should be given more time and easier access to residency. The period for those without professional qualifications should be shortened to 5 years.
88. Methodology chosen must not lead to a disproportionate increase of persons (originally not from Cayman Islands) having the right to vote.
89. Those who are coming here should be made aware of this situation/policy prior to commencing any form of work.



90. I am unsure. I believe there should be more flexibility on who gets to stay. Several expats have made a great contribution to the community despite how "common" their job might have been. If they're rolled over, the community does suffer.
91. The Caymanian Protection Board should be put back in place.
92. Rollover attracts cheap labour and local economic instability.
93. Re-evaluate the process of who gets rolled over.
94. There should be other measures. I like the point system.
95. It should be replaced by a policy that probably lengthens the period after which persons may apply for residency. Alternatively, there could be more stringent monitoring of persons who are granted residency if the aim is to keep the population etc at a manageable level proportional to available resources. There is no room in a productive society for such an awful system. Educate our children to be able to take on the types of jobs being fulfilled by expats. Then eliminate the roll over for any job that Caymanians WILL NOT do like gardening, construction, house cleaning, scuba diving, anything without a dress code requiring a tie. The only other option is to open up the requirements for key employee status. Then you can pick and choose who you wish to keep as a neighbor and citizen. Or, just deny the ability to vote but let them stay.
96. Rights of permanent residence and status ought to be available in a significantly shorter time.
97. There are three ways in which immigration can lead to greater economic growth. These are (1) enhancing openness of the host economy and increasing the demand for new investment; (2) through promoting innovation and consequential long-run changes in total factor productivity; and (3) through improving efficiency in the short run and long run, which again may boost total factor productivity.
98. It should be kept with the employers deciding who they want to keep for a long-term period or not.
99. The period after which people could return should be shortened to the minimum period according to law
100. Allow earlier application for permanent residency.
101. It should be re-developed to allow a path to residency for desirable permit holders.
102. There is a natural attrition of people leaving the island so that should be allowed to take its course. Additionally if someone has shown commitment to the Islands they be allowed to become PR. Otherwise the rollover should be effected.
103. Change the limit to 8 yrs, create a more thorough and detailed screening and application process for permanent residency, then allow permit holders to apply, if they are approved and granted residency they stay, if not they leave, if they want to return they return and start the entire process over (year 1).
104. Rollover has nothing to do with persons leaving the island, when you enter a next country there are no guarantees that you will be privilege enough to be given an opportunity to be employed or if you got it once there are no guarantees that you'll continue to work, that's why expatriates should make use of first opportunity. Rollover can be also looked or looked at by a fellow countryman as he/she can be also treated in the same way by an employer, as

the employer did not sign any affirmatives that he/she will continue to employ until death, the employer may think he needs to change you for any reason, so each and every person whom is given a work opportunity should make use of it. How much workers are recruited from Caribbean and other worlds each year to work in Canada/USA, yet the batched that was recruit the prior year, do not must be the same the coming year, yet they can be the next year recruitment batch. Rollover is fair and should not be distorted to suit no one. All persons whether on the Islands are in other worlds should be all thankful that they were given such opportunity as other worlds had given us an opportunity or a better one than what he or she would gotten within his own country, moreover Cayman is so tiny to the other worlds so it must protect it boundaries and yes it will continue to employ people from all over but these people needs to look at facts that is true not that is believe to be a right under the Bill of Right Regime fair is fair.

105. I lived in the US and meet people who worked in the healthcare industry, they were all on 2 year contracts.
106. Must meet the international standard (10 yrs?).
107. A proper immigration policy with term limits is necessary, but the criteria for qualifying to stay on the Island need to be re-considered, with less focus on financial status.
108. Ex-pats that volunteer/integrate with Caymanian population/ invest their time and money should not be put in the same category as the ex-pats whose desire is to save their money- or send their money to their home country and leave after a period of time. It's all about motivation to make this place home or use these Islands as a way of banking, undermining the social aspect of it.
109. Previous laws were sufficient - they just needed to be applied in practice.
110. Should be kept but revamp to appear more humane.
111. A serious look at the overall job market in Cayman is long overdue, what is the point in rolling over people who cannot be replaced except by recruiting again from abroad? People cannot plan except by planning to leave upon rollover which makes people resigned to it. People start looking elsewhere in preparation even if they may get key worker, why would anyone with a skill set in short supply worldwide put themselves through the stress of the process when countries all over the world are crying out for their skills?
112. It should be kept, but after 7 years permit holder should be given a chance to waiver any rights to apply for any status and can continue to work for another 7 years. Whenever people who have been here for a while get rolled over it causes spike in crime (on various levels) because the new comers take a time to understand the laws of the country and tends to break it more often.
113. There should be a study made of what people's expectations are when they first come to the island to get an idea of how many people would want to stay longer than a term limit. Many are here only for a short time and those who do want to stay will generally invest in the island through purchase of property etc and should be given that opportunity to boost the economy.
114. They should respect the law when it is time to go adhere to it.

115. You need people to invest in the country and community.
116. I think it should go to a 10 year situation and anyone reaching year 8 should be allowed to apply for PR, if they get it then they have met the requirements if they don't then they should go at year 10 be allowed to be away for six months then allowed to come back. There was always the argument that work permits were needed because Caymanians lacked higher education. Now that the country has spent a significant amount of money on higher education for Caymanians, we need to ensure that they have every opportunity to be employed. We keep moving the goal posts for our own Caymanians. The rollover policy would be revised but definitely NOT discarded!
117. Surely after 7 years a person is committed enough to want to refer to Cayman as home and feel that they belong. They most likely care for the future of the Island so you are just getting rid of good people.
118. Period after which people can return shortened to 6 months.
119. After 7 yrs, no grant of citizenship possible, new status for those that would like to remain not requiring work-permit fees to continue. As long as they contribute to community and economy. Money made here is spent here helping the economy.
120. The rollover has clearly impacted negatively on the country's economy with many persons spending less in every aspect of life. Had it not been that way, more money would be spent and therefore, the benefits would be seen here.
121. It should be modified.

## Appendix J – Views on how the Term Limit Policy affected persons Professionally

1. I was granted key employee, so no impact.
2. Kept current job which was previously at risk of losing to expat.
3. Loss of professional ties and development from mentors that got rolled over.
4. Currently working under the Term Limit Exemption.
5. Lost several reliable colleagues which make daily operations very difficult for entire team.
6. Will possibly split up my family and make financial commitments difficult to manage.
7. Work permits and key employee/pr and ultimately status are given too freely to persons with no regard to the long-term future of these Islands and their people. The system needs to distinguish between those that are domiciled here and those who are merely resident while the money is good. Too many are intentionally misleading immigration with impunity. The result has severely damaged or even destroyed the careers of many many Caymanians. I have been lucky but the anger below the surface is growing to levels that are dangerous for the economy. Rollover is not an issue for financial services. The lack of enforcement of the immigration law is the problem. For the system to work the Caymanian people need to be assured that people who are granted permissions really meet the criteria. Too many do not.
8. The rollover will destroy my life as I have given 14 years to this island. I work as a Special constable for the last 5 yrs. Have made this my home and now you want to kick me out.
9. May be forced to leave with my wife and daughter (in private school here) after purchasing a home on the island.
10. Position currently uncertain
11. Prohibits career development and growth.
12. Lack of adequate enforcement of law has had deleterious effect on many Caymanians in industry. The policy itself has had no substantial adverse effect.
13. Out of the loop. No longer considered for a higher position. Been on the job 20 years, very qualified for the position I've been seeking. I would have finally got the chance if the current person holding the position had been rolled over, but not anymore. It's no longer a concern of the management.
14. Have to leave in May, I hope to return.
15. Not to be negative as I am grateful to be happily employed but I do feel that it has limited the positions available as most businesses only advertise the positions for renewal of work permits with no intention to give a qualified Caymanian the position as training etc. will be too costly etc.
16. Yet, I am currently approaching my term limit.
17. Prospective professional staff are potentially dissuaded from coming to Cayman and client service is disrupted by the prospective loss of quality support staff who service clients.
18. I expected more jobs to become available to Caymanians but all companies did was bring in new foreigners.
19. Waiting to see the impact after the exemption for 2 years.

20. The rollover should have afforded more Caymanians to move into senior roles but it is not working. The idea of granting key employee status is also not a fair process since there is no one checking with the institutions to confirm if a Caymanian/Resident with the right to work is being trained to fill the positions. The process is definitely not working since it is not being properly monitored.
21. Would have had to leave my job this coming November.
22. Continuity in career progression diminishes.
23. I'll be losing my job, my home and my pets, plus the entire Caymanian family I have become a part of since moving here - they are all amazed and disappointed to find that as a UK citizen, I still get rolled over like any other citizen given that we are a British Territory. As a British Citizen, I feel very disappointed with this aspect of the rollover policy too. I have made a home and invested all my money and time here.
24. Was advised that I would be put forward for key employee but two years later was advised that the company would no longer be applying for key employee. After 6 years of hard work and loyalty, this has impacted my long-term career goals and my sense of security here on island.
25. Nothing so far as I am in my fourth year here on the island.
26. Uncertainty about future.
27. Entire IT department was relocated to another country because Head of IT was rolled over. Was offered a job in the UK with a 50% pay cut before taxes.
28. Lost job when business moved operations back on-shore.
29. My views are coming from the perspective of a native Caymanian who experiences the weight of a country overrun with an expatriate population. This situation has led to the following: a general feeling of insecurity, a feeling of non-belonging anymore in my land of birth and heritage, insecurity for the well-being of future Caymanians, fear that our tiny infrastructure will not be able to cope with the burden of the numbers place upon it (e.g. burial of the dead (people), garbage/waste, roadways and housing). A more efficient (i.e. honest and fair method of hiring of expatriates) must be found to prevent appalling injustices to Caymanians in the job market of their own country.
30. However increased stress in the workplace as we try to replace lost employees due to the rollover
31. Lost Tenants.
32. I had a domestic helper who was very industrious and an all around good worker and lost her because of the roll over policy. That has negatively impacted my family as we considered her to be part of the family.
33. Got a salary increase.
34. Was not promoted nor was I demoted but it has the potential to block promotion in my field of work as well as possible losing my job as foreigners have been and continue to be given preference over Caymanians. It also puts a damper on young Caymanians who are qualified but because the person in a particular job is said to have 'More Experience' the young Caymanian is not given a chance so it does take jobs away from qualified Caymanians.

35. The impact that it has, is on the Caymanians, the Caymanians cannot get jobs, the foreigners are getting all the jobs because of lower wages, but the truth and in fact is if they did not achieve something in five years two years more cannot help them.
36. A Foreigner was promoted over me, after I trained them; it was my turn for promotion. I was looked over. I have a Masters. My promotion was denied despite me being a Caymanian Key employee, born and bred here. Key is a Caymanian not a foreigner you guys have it wrong.
37. An entire Trust Department was shut down and moved to Bermuda because of one manager not getting her key employee status.
38. 7 years is sufficient for anyone to be satisfied. Give others/new individuals a try.
39. Ill-qualified/non-qualified/under-qualified Caymanians have been put in management positions that they can't handle simply because they are Caymanian, putting additional pressure on the staff beneath them to cover for their inadequacies.
40. Created insecurity, built home here before rollover, and started working before rollover.
41. Our nanny of 7 years got rolled over and it created havoc in our lives.
42. It has created a sense of discontentment, fear and instability in regards to future planning, which in turn has an underlying impact on organizational commitment.
43. So far, reached 7 years and Key Employee application pending, so can be lost a job soon if not granted.
44. I have only been in the Cayman Islands for a little over a year. My experience (and, to be honest, the depressing stories that I've heard told) with people being rolled over and made to leave has caused me to plan for a future elsewhere. I would not want to buy property and work hard to stay somewhere where I - and the money I spend - are not welcome.
45. Required to have exit strategy before accepting position here, which made the decision very difficult.
46. Lost so many good PROFESSIONAL friends, they had to get jobs while away for ONE YEAR and have not returned.
47. I have found that employers are now less likely to give Caymanians opportunities and actually take steps to keep their expat employees in contravention of the existing laws and policies.
48. Concerned for investment (personally and professionally) in Cayman due to the roll over policy.
49. If suspended it will affect my children and grandchildren for generations to come.
50. Made labour market more difficult and expensive.
51. Obtained a Bachelor's Degree, the company I worked for closed down and I was forced to take a job earning what I was earned 25 years ago before getting a degree.
52. No room for growth as expatriates are getting best jobs.
53. As a manager I felt conflicted during the key-employee / PR application phase. I was told by HR that an employee that reported to me was saying that they wanted 'x' or they were going to make sure I didn't get it.
54. Other Caymanians not trained.

55. I think that this roll over should be stop because there are a lot of us Caymanians are out there without a job.
56. Lack or low security/tenure means there is no long-term planning/investment locally rather my family spends its time planning our exit strategy.
57. Difficult to find/hire new professional employees.
58. Unable to find a domestic helper take care of the kids.
59. Had unfair treatment because of nationally.
60. Loss of qualified staff.
61. Manager was rolled over and I took over position.
62. Lost some very good staff.
63. Unable to get job I want.
64. I was promoted when the manager was rollover. I thought that was the plan for the system.
65. None really...taken a year off to live in Playa del Carmen. I'm coming back in a year. I was there six and one half years. It just seems odd that I have to leave for a year. I spread \$60,000 around the local economy yearly. That money now goes to Playa.
66. My role was not created due to rollover rather no suitable Caymanian existed with the requisite skills for the role.
67. Tour/taxi operator lost money because of so many Jamaicans coming into same business. Started 22 years ago with 17 operators with taxis now over 100 operators with busses. Lost house and half of my money per year.
68. Job insecurity.
69. We're hesitant to invest in real estate because of the impact of a possible rollover.
70. Have to work long hours to cover rolled over employees and train new employees.
71. Housekeeper rolled over causing stress.
72. After 10 years with the same company I will have to leave because of permits.
73. Future loss of job, and financial stability for the family.
74. Currently in limbo. Husband and I have both been here for 6 years, unsure of what to expect. However we have always assumed we would have to leave by our 7th year.
75. More duties.
76. Lost an excellent nanny due to the rollover policy and my family and I suffered emotionally.
77. I have had to assume the task of helping a good friend leaving the island. I have to take care of her condo and other household items until it will sell. Unfortunately, thanks to the roll over debacle, nothing is selling!! She could not just leave for a year because at her age, if she came back this year and then could only stay for 7 more years, she would then be a great risk of not being able to get work anywhere as she would be in her sixties and unable to re-locate easily. She has no family or other form of support.
78. Pay reduction.
79. Influences what job I apply.
80. Rollover doesn't currently affect me; however, I am limited to working in the CI Government. This precludes the transfer of skills from one sector to another.

81. I have been on island with my spouse since I am on roll over. I have been unable to get a job even with the WOL.
82. Unable to recruit qualified persons because they are 2 years out from their term limit which is in conflict with Governments internal policy.
83. Serious uncertainties as I have purchased a house and may have to face the fact of going home and in addition may not get the house rented due to the lack of demand the rollover issue has caused
84. By awarding key employee status it prevented me from being promoted.
85. I took on more responsibility, which empowered me and learned more about the operation of my department.
86. Because of the rollover I was motivated to become more qualified.
87. On-going/regular staff shortages which cause heavier workload.
88. I have just arrived and started a two year contract that I hope is renewed.
89. Serious impact on long-term planning for Government IT due to resource movement.
90. Lost our helper.
91. It has made it increasingly difficult to do my job.
92. We lost good employees.
93. Until you pass that hurdle there is a great feeling of uncertainty about the future. Very difficult when you have a family of 4 school aged children to consider and the impact it has on them if you suddenly have to leave "home" and school.
94. Applied to PR; refused and awaiting appeal.
95. Not affected Government employee.



## Appendix K – Views on how the Term Limit Policy affected persons Economically

1. Commercial and social entities are suffering from lack of support by expatriates who are unwilling to "give back" to the community.
2. Rollover has at least helped protect the value of investments. Without it the numbers of unemployed in Cayman would be multiplied many times. The social implications of that would undermine society and investment values much much more.
3. Money will be lost if rollover is imposed.
4. Instead of investing money on the island, I invested it back home. I could have bought a house instead of paying rent or even setup a small business with Caymanian friends.
5. How can this survey attribute making or losing of money on investments to rollover? The suggestion that rollover is connected to property prices (for example) is fundamentally flawed. Prices have moved in numerous countries even more than in Cayman. Is that due to rollover there too?
6. My salary was not reduced, but isn't going to be increased any time soon as I am no longer considering for a higher position.
7. As stated in previous question I am approaching my term limit. Until that time comes I cannot say. But my feeling at this moment is that I will lose money on real estate purchased by having to liquidate at the end of term limit on a down turning market.
8. No growth and development in my job.
9. Invested heavily by coming here, but burnt through funds for various reasons and will have to leave with considerably less than I arrived with.
10. I will lose my salary when I get rolled over, along with the home that I love and rent from a Caymanian (who will lose my rental income); my car, my fishing boat and my pets. I will return to England and become another unemployment statistic until I can find a temp job there for my rollover year, after which I hope to return and be reunited with my Caymanian family.
11. Not a straight forward answer. I did lose a permanent position because the Head of Department was rolled over and moved the entire department to another country. Later I started my own business and I was able to purchase a home at 30% of what it was originally listed for because of expats that were rolled over and wanted a quick sale.
12. A normal work permit grant would be for 1-2 years with renewals with a maximum of time up to 5 years after which the individual must leave the island without delay for a period of two (2) years. After that, the individual may return and start afresh. To qualify for Key Employee Status, strict criteria should have to be met. These criteria should be clear, and not left anyone's interpretation so that our system will not be made a mockery of. There will be those looking to slip through the loop holes, just to remain in the Cayman Islands, thereby obstructing the progress of upcoming, fully qualified Caymanians. The maximum time for the key employee should be 7 years. Few services/businesses should have need for Key Employees. Criteria to qualify for Key Employee Status should include but not limited to: World-wide scarcity of the particular individual 'rare and specialized skill/unique ability (not

personality traits, race, social status etc). The absence of this worker would be profoundly detrimental to the company and/or the country. No work permit holder should progress to apply for Permanent Residency. Never again should this tiny country be host to large numbers of long-term (expatriate) residents (there is already too much tension among Caymanians and expatriates and a struggling infrastructure). I understand that Term Limit Work Permits were introduced in order for Caymanians to maintain control of their country, politically and economically etc. We have already lost it economically.

13. More money remained in the local economy for circulation.
14. My monthly rental payment for the same 2 bed-townhouse has decreased 31% since I moved to Grand Cayman in April 2007.
15. In all fairness, for persons who had rental accommodations it could or would have an economic impact on them. Also the local economy will definitely be impacted negatively as there will be less persons buying from the restaurants, supermarkets, etc. Everything will be impacted and to some degree in a negative way. Immigration will be impacted as work permits are an important source of income for our Government.
16. It makes an economic impact because the more expatriate teachers that are placed on the higher end of the pay scale, the less chances for promotion for me or for other qualified Caymanian teachers.
17. I was denied promotion and my social economic status was reduced instead of improved.
18. I will not invest in buying a home or other expensive items on island as know will have to leave after 7 years.
19. I don't at this point in time have anyone in my employment who has been rolled over or is in the process of being rolled-over but even if I did, I feel certain that I would have allowed or will allow the system to take its course and the person would have left the jurisdiction or will have to leave the jurisdiction. If I was desperate to fill the position and this could not be achieved locally, I would once again pursue the option of a work permit for another individual. The option would be available to me to either to hire the new employee on a temporary work permit and consider re-hiring the former employee a year after his or her departure, taking into account that the person may or may not wish to return. Not very many individuals seem to be able to accept that a good employee is not indispensable. We often discover after having to "part company" with an employee - who may have seemed almost perfect and who we would have liked to retain in our employment - that the person who replaces him or her is probably even more suited for the position. We just need to allow this to happen. We are not dealing with just one family who may wish to retain the services of a foreign employee but numerous and if everyone was allowed to retain the person after a qualifying period of time, this small but great country would encounter very serious economic issues in the future. What also needs to be clear is that when a person who falls in the category of a domestic helper or a gardener or a handyman is allowed to reach that period which allows him or her to pursue applying for Permanent Residence, and if he or she is successful, it is highly unlikely that that person will wish to continue in their role as a domestic helper, etc. The employer will then be in need of identifying another domestic

- helper and almost certainly the new employee will once again have to be imported. We must know when to draw the line and the roll-over is there to assist in so doing.
20. Was out of a job for 8 months then secured temping jobs. Now in full time employment.
  21. None directly but it has impacted negatively indirectly-more mouths to feed & less opportunities for jobs - it has impacted my family & friends looking for jobs as Caymanians are not the preferred nationality for employment for various reasons.
  22. Lower monthly rental expenses.
  23. Got a job on island.
  24. Rollover means no incentive to invest on-island, much better off renting till tenure is secured; rent is going to an American citizen living in the US. House prices get inflated and my rent goes out of the country. The Island loses, I loose.
  25. Decided not to purchase or construct a residence for my family.
  26. Planned to retire here, built home before rollover and made retirement plans before rollover 2001.
  27. I cannot rent out my other apartment.
  28. I was constructively dismissed and given a payoff because I was standing in the way of an Expat being given exempt employee status.
  29. I have left and returned to the Island a couple of times. Both times I lost money on personal property as well as the cost to set-up 'life' when residing here.
  30. General downturn in economy is never good for anyone especially with so many less people to purchase goods and services.
  31. Downtime between tenants.
  32. They are only here for the money because majority of expatriates do not have this country at heart again when there seven years are up let them leave the island.
  33. Due to inability to provide some prospects of any long-term stability, I have made little or no investments locally.
  34. I wish we would make it easier for people to stay here. The transient nature of wp holders since Ivan discourages people from becoming part of the community & prevents them from investing in our economy.
  35. Unable to earn salary I want because unable to get promotion.
  36. Have not purchased house because cannot stay.
  37. Had to find new accommodation as house mates left the island.
  38. Future loss of financial resources.
  39. Impact has come from the slowdown of the country's economy causing Government to bring in less revenue and therefore being forced to reduce salaries of public servants.
  40. During my tenure in the private sector, I think the presence of the roll over provided additional incentives for my employer to train me as a Caymanian.
  41. Kids in college and unable to get part-time jobs.
  42. Can't get apartment rented.
  43. I have lost BIG TIME on rental properties!!! One place, with a \$915/month mortgage is renting for \$600!!!! I have four rental units and the rents are now almost HALF what they

were two years ago!! And, NOTHING sells on ECAY anymore. I am stuck with helping a friend sell off her belongings when she got rolled and NOTHING has sold!! I can't sell of several things that I need to sell to get some cash, and nothing is moving. I used to have plenty of calls when I tried to sell something, but not anymore!!

44. The generic regression model to test the impact of immigration on local labour market outcomes is (Borjas (1999a, p 1735),  $Y_{js}(t,t') = m_{js}(t,t') + X_{js}'a + U_{js}(t,t')$  in which is the change between years  $t$  and  $t'$  in the measure of the labour market outcome experienced by natives who live in region  $j$  and belong to skill group  $s$ , is the change in the stock of immigrants in that region for that skill group over that period,  $x$ ),  $(t,y_{js})'$ ,  $(t,m_{js})$  is a vector of control variables with coefficient vector and  $u_{js}$  is the stochastic error. The coefficient of interest is. Estimates of vary across studies and even within studies across time periods. There are three potential explanations for this. Either the equations are mis-specified due to omitted variable bias, or the migration shock itself is endogenous, or the 'true' effect depends on the specific situation that has been analysed (country, period, type of data). Most of the research on the labour market impact of immigration has been concerned with the impact of immigration on wages rather than labour force participation or unemployment rates. A recent meta-analysis of the international literature focuses therefore on wages. Borjas (2003, p 1335) recently noted that 'the measured impact of immigration on the wage of native workers fluctuates widely from study to study (and sometimes even within the same study) but seems to cluster around zero'. This observation is rather puzzling from the perspective of standard economic analysis, as an increase in labour supply may be expected to put downward pressure on wages in a competitive labour market. Indeed, a common fear expressed by many people who oppose immigration is that immigration shocks put downward pressure on the wages of those who are potential substitutes for immigrants in the labour market. However, surveys of the empirical literature suggest that the effect of immigration on wages of natives is rather small, often negligible and sometimes even with a positive sign (e.g. Friedberg and Hunt (1995); Borjas (1999a)). These findings appear to contradict standard neoclassical theory in which a positive supply shock in a closed labour market may be expected to lower the price of labour. Three sets of explanations can be put forward: either the conducted econometric analyses have been inappropriate, or there are market forces at work that offset the potential downward effect on wages, or institutional factors stop markets from adjusting as expected following an immigration shock.
45. I am reluctant to invest in a new car or buy a home.
46. My wife and I almost lost our house so we had to refinance. This has set us back five years. My wife has to be doing everything herself.
47. Lost my Girlfriend (Honduran), very nice girl. In 1995, Immigration said to me, marry my ex-wife, or she has to go? So I married her, 13-years later, she takes a ton from me. Immigration needs to do away with this. As a young Caymanian native, why do I have to marry a girl in order to keep her here with me? Make me give you guys \$5,000.00, and if things don't work-out, then take it and send her home? It is not fair. I am now 40- yrs old; the pickings amongst Caymanian women are little to none? I never want to marry again?

48. Loss of rental income possibly impacted by less expatriates within the housing market.
49. Spouse (only Caymanian- born person in Managerial position in his Dept) made redundant while foreign-worker in the same department and level received key-employee status and retained employment
50. I am of the opinion that the lack of a firm and enforced rollover policy will cost this country dearly in that Caymanians will have less opportunities to succeed in their own country.
51. I have to have other means of finding child care for a year 2 student.
52. Paying less rent as there is more rental property available.
53. Refuse to buy a house due to roll over.
54. We lost significant talent=\$\$.
55. Fortunately no major impact as I was not rolled over but even so there is always the worry that although you invest in property you will be made to go at very short notice
56. Extra expenses to live elsewhere for a year until we could come back BECAUSE WE OWN A HOUSE AND LAND HERE.
57. Fewer properties rented; accommodation cost less in some places.

## Appendix L – Views on how the Term Limit Policy affected persons Socially

1. A general feeling that there is not much point in settling too much in Cayman i.e. the future is uncertain so why invest in property or make long-term plans.
2. Caymanians receive more respect when their status is protected. Rollover assists Caymanians in retaining that position of respect. When expats have all the rights of Caymanians, obviously Caymanians suffer on all levels because there are an equal or greater number of expats living here.
3. The Roll-over policy is the worst thing that has ever happened to the island. The people that now come here know they are only here for a few years and don't want to invest anything into the island - their goal is to take as much away as they can. The people that do get rolled over it is destroying their lives - the rollover policy has to go. I am so pro Caymanian growth but if you are a good employee, the sky is the limit. Being given a good job means you have to work, once you are prepared to do that you will always be preferred over an expat!
4. A number of friends who intended to come work in Cayman opted out of it due to the inability to have any long-term plans given that one gets rolled over.
5. People I knew and trusted had to leave - examples child's teachers, doctors and other service providers.
6. There is little continuity in most areas, this is never good.
7. What is best for Caymans overall sustainability and some regard for the position of Caymanians in society should be all that matters. Emotive personal stories about an assistant or cook having to leave for a year are not relevant unless the result is workers will not come on permits. That is plainly not the case.
8. It is stressful waiting to hear about Key Employee status and then Residency. The emotional suffering of a family facing uncertainty about their future is unnecessary and a better solution is required.
9. Persons who were helping to impact our youth in our businesses, churches etc. left unfinished jobs.
10. We are suffering as a people - but Caymanians are being overwhelmed and overtaken. Rollover provides a limited fetter on the wholesale disappearance of our culture. Without it certain nationalities would be even more prevalent and the bitterness many Caymanians now exhibit towards foreigners and newer Caymanians would be far worse. Our society requires balance. Removing rollover would upset the balance in dramatic form – particularly given human rights considerations.
11. Happy they gone, wish they could all go.
12. Less cohesive society overall as long-term relationships are lost.
13. Attitude from SOME Caymanians. Too lazy to work. Treated as second class citizen.
14. I believe families will be less likely to come as children's schooling can be disrupted.
15. Not yet been rollover over (due 2014), but the prospect fills me with dread. It's not easy packing everything up to move to another country, to be told you have to do it again in reverse because you can't stay!

16. I will be leaving the island when I get rolled over and I feel that rollover, coupled with the positive discrimination aspect of your rollover policy has only served to increase hostility and racial discontent between the various international communities who live here. I also think the entire immigration policy as it currently stands, together with future plans to nominate Caymanian only jobs, only serves to encourage companies to employ 'token' Caymanians and to take away any meritorious element in the recruitment of
17. Caymanians, Caymanians not getting credit for their hard work, qualifications and work ethic like everybody else, but instead being employed because of their nationality.
18. I will lose friends and strain my relation with my little brother (of the BBBS programme).
19. I'm finding a new wave of people coming into the island - not the standard of professional you saw here before. This new wave of permit holders is less skilled, less experienced and less respectful of this country's culture.
20. My daughter who was raised in the Cayman Islands and went to school here will be rolled over.
21. Friends became more resentful of having to leave after having invested 7 years here.
22. People less welcoming being that some foreigners felt that there was an issue between them and the locals.
23. Rollover should remain in place.
24. Not rolled over yet but know that it will disrupt my life when I do.
25. Not enough people left the island.
26. It is very difficult to create a sense of belonging with any group given that my contract is for two years and I have no job security after the two year contract.
27. People leave before the roll over because of it. We are losing good people and going through the process of adaptation with new ones all the time. That is a cost to the businesses and society, is it worth it as it is?
28. Puts future investment on hold pending permanent residence.
29. There is obviously a sullen antagonism between the two sides of the rollover argument. It is one of the few negatives about this lovely place.
30. It's unbelievable some of the professionals I know that left the Island who were valuable contributors to the Islands - we turned them against Cayman forever. I have Caymanian godchildren so I understand the need for them to have jobs in their own country because they have nowhere else to go but surely there are better ways than rollover
31. Expats less willing to volunteer and become part of the community and Caymanians less willing to befriend them.
32. Damage the economy monopoly.
33. My 5 yr old daughter and I were tremendously affected as her care giver from birth had to leave the island on rollover. She was extremely distraught emotionally which affected her school work and all other aspects of her life. I do not think the roll over should be given to persons such as caregivers as they are not easy to replace especially when they have worked with families for a long time and have earned the trust of their employers and their children.

It is very stressful to find someone new to welcome into your home and trust to take care of your children while you are at work.

34. Crime increased.
35. I have notice that Caymanians are now trying to socialize more since some of these expatriates that are on roll over is leaving the island again when there seven years are up let them leave the island.
36. While we had new immigrants, the culture changed and has changed so that where we once had a lot of friendly exchange - that has now disappeared. I now feel "like a stranger in Moscow".
37. Special services provided by service industry workers were interrupted and so we had to find new companies to fill that need.
38. People less happy to train Caymanians.
39. It was sad to see friends and acquaintances left the Islands....but the fact of the matter was that they were on permit, they had agreed to stay for a specify time, outlined by the permit. Their stay was not permanent.
40. More distance between expat and Locals More migrant workers less true community spirit.
41. I think the rollover provides additional protection for the Caymanian cultural identity and I think that is valuable. Unfortunately I believe once the population of expatriate exceeded a threshold of about 30 percent, there was a noticeable increase in racism which affected my social like in a negative way.
42. Relationships several years old were ended due to rollover.
43. I find myself being more of a recluse as I assume any new friends we make will soon be leaving the island.
44. Volunteers for social programmes impacting the youth/ church and other significant groups had to leave, resulting in increased work-load for other volunteers or the cancellation of some programmes that would have benefitted the community and church greatly.
45. It makes you less likely to invest time in developing friendships with expats because you know they are just going to have to leave.
46. The likelihood of migrants making human capital investments (through further education and training) upon arrival is undoubtedly related to the nature and extent of post-settlement services provided by government agencies. Research in this area falls within the realm of social policy evaluation.
47. Loss of people in voluntary service roles.
48. This has put a strain on my marriage. This has caused me to feel useless in my home.
49. Have to be more conservation with spending money. I want to make additional investment but can do so as I may have to leave the island.
50. Created an increasingly divisive atmosphere and environment between Caymanians and foreigners, in other words there is less desire to socialize as much because of the tensions experienced in the workplace.
51. Most of the people in my community are foreigner and they tend to stick together, causing a lot of hostility, even with their pets and children, they don't even say HELLO.



52. Well am speaking for my mother whom I know would have said this in person, we all are grown persons and we have to behave as such, therefore friend sometimes have to depart from each other but it doesn't stop you both from being friends, at the same time take Cayman for instance most of their forefathers were all seamen, yet they travelled all over the world and some return to their family while some marry overseas and settle there. So no one should expect that Cayman should curve its Law to suit each and everyone, as this will be a big problem. Cayman needs to stand at this point and let all expatriate knows that they loved them but they "Must" realized that reality is reality.
53. No social impact on me but we should be concerned about the impact on our children. Will they be outnumbered and cast aside for these persons who are allowed to live and work in the C.I's. indefinitely.
54. My gardener got rolled over and the yard went to hell.
55. Many of the incoming workers did not show an interest in the Caymanian culture anymore because they knew they would have to leave. This has contributed to great social divide between Caymanians and expats.
56. It has created a us against them environment and brought in workers who are not vested in getting to know Cayman and its ways, it has created a let's get all we can out of this country as we are going to get kicked out anyway mentality.
57. Many friends actually left before hitting term limit; they didn't want to be told to go and would rather make the decision themselves. Impossible to plan life if you are just waiting for someone else to tell you when you must leave.
58. There have always been term limits on work permits - they were always for a fixed period; i.e. one or two years with the possibility of not being renewed.
59. Work permit holder friends and colleagues are disillusioned about security in living here, making work and social environment stressful - less loyalty to employment, CI government and volunteering.
60. Persons in general have become far more cautious with spending. The uncertainty of one's tenure leads to careful managing of one's resources.