

CHAPTER 186A

CARIBBEAN COMMUNITY (MOVEMENT OF SKILLED NATIONALS) 2004-13

This Act came into operation on 24th January, 2005 by Proclamation (S.I. 2005 No. 1).

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

2007

CHAPTER 186A

CARIBBEAN COMMUNITY (MOVEMENT OF SKILLED NATIONALS) 2004-13

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BARBADOS

CARIBBEAN COMMUNITY (MOVEMENT OF SKILLED NATIONALS)
2004-13

An Act to remove the restrictions on entry into Barbados of Caribbean Community skilled nationals of qualifying Caribbean Community States pursuant to Article 46 of the Revised Treaty and for related matters.

[Commencement: 24th January, 2005]

Short title

1. This Act may be cited as the *Caribbean Community (Movement of Skilled Nationals) Act*.

Interpretation

2. In this Act,
“Certificate of Recognition” means a Certificate of Recognition of Caribbean Community Skills issued by the Council in the form specified in the *Fourth Schedule*;
“Community national” means any national of a qualifying Caribbean Community state who is recognised by the Minister as being
(a) a member of a recognised organization; or

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NATIONALS)

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- (b) the holder of a qualification specified in the *First Schedule*; or
- (c) a person who engages in an occupation specified in the *First Schedule*;

“Council” means the Barbados Accreditation Council established by section 3 of the *Barbados Accreditation Council Act, Cap. 38A*;

[2004-11]

“dependant” means

- (a) the spouse of a Community national unless, where the spouse is married, the parties to the marriage are living apart under a deed of separation or a decree or order of a court;
- (b) an unmarried child or step-child of the Community national under the age of 18 years;
- (c) any unmarried child adopted by the Community national in a manner recognised by law and who is under the age of 18 years; or
- (d) any other relative who is by reason of age or any infirmity of body or mind wholly dependent on the Community national for subsistence;

“national” means a person who

- (a) is a citizen of a Member State; or
- (b) has a connection with such a State of a kind which entitles him to be regarded as belonging to, or, if it be so expressed, as being a native or resident of, the State for the purposes of the laws thereof relating to immigration;

“property” includes real and personal property;

“qualifying Caribbean Community state” means a member state of the Caribbean Community specified in the *Second Schedule*;

“qualifying certificate” means a Certificate of Recognition of Caribbean Community Skills issued by the competent Minister of a qualifying Caribbean Community state;

“recognized organization” means an organization declared by the Minister by order published in the *Official Gazette* to be a recognized organization for the purposes of this Act;

“spouse” includes

- (a) a single woman who has lived and cohabited with a single man as if she were in law his wife for a period of not less than 5 years immediately preceding the date of the application under this Act;
- (b) a single man who has lived and cohabited with a single woman as if he were in law her husband for a period of not less than 5 years immediately preceding the date of the application under this Act;

but a reference to a single woman or a single man includes a reference to a widow or widower or to a woman or man who is divorced;

“Treaty” has the meaning assigned to it by section 2 of the *Caribbean Community Act*, Cap. 15.

Provisional entry of nationals and dependants

3.(1) Notwithstanding the provisions of any law, and subject to subsection (2) and section 8, an immigration officer shall at a port of entry permit a Community national to whom this section applies and any dependant of that national to enter Barbados for a period not exceeding 6 months.

(2) This section applies to a Community national who

- (a) is the holder of
 - (i) a passport and who was born in the state issuing the passport or in another qualifying Caribbean Community state; or
 - (ii) some other form of identification issued by the state of his birth or by another qualifying Caribbean Community state of which he is a national;

- (b) has a right to enter and seek employment in Barbados pursuant to Article 46 of the Treaty; and
- (c) presents to the immigration officer on entry into Barbados a qualifying certificate.

Indefinite entry of Caribbean skilled nationals

4.(1) Notwithstanding the provisions of any other law, and subject to subsection (2) and to section 8, an immigration officer shall permit a Community national to whom section 3 and this section apply and any dependant of that national to enter Barbados for an indefinite period.

(2) A Community national who is granted permission to enter Barbados under section 3 shall be permitted to reside in Barbados for an indefinite period if that Community national

- (a) has made an application to the Minister of Education in the form set out in Part I of the *Third Schedule* for a Certificate of Recognition and has been issued with a certificate in the form set out in the *Fourth Schedule*; and
- (b) where applicable, has held under any other law in Barbados a permit to carry on, practise or engage in a profession referred to in paragraph 2 of Part A of the *First Schedule*.

(3) A dependant of a Community national referred to in subsection (1) is permitted to remain in Barbados only on the condition that the Community national lives and is engaged in employment in Barbados in accordance with the provisions of this Act.

Application for Certificate of Recognition

5. An application under paragraph (a) of section 4(2) shall be in the form set out in Part I of the *Third Schedule*, and shall be accompanied by the fee set out in Part II of that *Schedule*.

Issue of Certificate of Recognition

6.(1) Subject to subsection (2), the Council shall issue a Certificate of Recognition to every applicant who satisfies the requirements for recognition as a Community national in accordance with the provisions of this Act.

(2) The Council may refuse to issue a Certificate of Recognition to

- (a) a person referred to in section 8; or
- (b) any person who has been convicted of an offence under section 11, or a similar offence under the laws of a qualifying Caribbean Community state

where the Council has been so advised by the Chief Immigration Officer.

Certificate of Recognition issued to a national of Barbados

7. The Council shall issue a Certificate of Recognition to a Community national who is a national of Barbados and who wishes to enter and seek employment in a qualifying Caribbean Community state pursuant to Article 46 of the Treaty.

Prohibited Community nationals

8.(1) Subject to subsection (2), an immigration officer shall not permit a Community national or any dependant of that national to enter or remain in Barbados where the Community national is a person described in the *Fifth Schedule*.

(2) The Minister may in writing exempt from the operation of subsection (1) a person

- (a) described in the *Fifth Schedule* whose entry into Barbados to seek treatment and care at a hospital or other place or institution for that treatment and care is approved by the Minister responsible for Health;

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- (b) described in the *Fifth Schedule*, where the Minister is satisfied that that person is a member of a family already lawfully in Barbados and another member of that family gives security satisfactory to the Minister against that person becoming a charge on public funds;
- (c) described in paragraph 8 of the *Fifth Schedule*, in respect of whom the Minister is satisfied that
- (i) that person has ceased to be a member of or associated with an organization, group or body so described; and
 - (ii) the entry of that person would not be detrimental to the security of Barbados;
- (d) who has had or is likely to have his criminal conviction expunged from the records in accordance with the *Criminal Records (Rehabilitation of Offenders) Act*, Cap. 127A or with any similar Act of a qualifying Caribbean Community State; or
- (e) who is in lawful custody passing through Barbados in transit to another country.
- (3) An exemption under subsection (2) may be granted subject to such conditions as the Minister thinks fit; and if the person to whom the exemption relates fails to comply with or contravenes any such condition, the Minister may make a deportation order against him in accordance with the provisions of section 21 of the *Immigration Act*, Cap. 190.
- (4) Notwithstanding subsection (1), the Minister may by order subject to affirmative resolution make such provisions as seem to him appropriate for exempting from the operation of subsection (1) any person who is a prohibited national under the *Fifth Schedule* other than those prohibited nationals referred to in subsection (2).

Effects of entry permission

- 9.(1) Notwithstanding the provisions of any other Act, a Community national who is permitted to enter Barbados under this Act shall not be subject

to any restriction that is not permitted under the *Caribbean Community Act*, Cap. 15.

(2) A dependant of a Community national is prohibited from engaging in employment unless the dependant satisfies the requirements for recognition as a Community national or obtains a work permit in accordance with the *Immigration Act*, Cap. 190.

Revocability of permission

10.(1) Permission granted under this Act to a Community national to enter and remain in Barbados and the rights conferred on that person under section 9 may be revoked by the Minister where the Minister has reasonable grounds for believing that the Community national is a person mentioned in the *Fifth Schedule*.

(2) Any decision of the Minister to revoke permission under subsection (1) shall be made in the interest of protecting national security, public order and public safety.

Offences and penalties

11.(1) A Community national commits an offence under this Act where the national

- (a) for the purpose of procuring a qualifying certificate or for the purpose of seeking permission under this Act to enter Barbados,
 - (i) makes a statement, for himself or any other person, knowing the statement to be false in a material particular; or
 - (ii) recklessly makes a statement which is false in a material particular;
- (b) uses a qualifying certificate issued by the competent Minister of a qualifying Caribbean Community state knowing that the certificate has been cancelled by the Government of that state;

- (c) uses a qualifying certificate knowing that the certificate has been cancelled by the Minister; or
 - (d) utters or has in his possession a Certificate of Recognition that is fraudulently obtained or is forged.
- (2) Where a Community national is convicted of an offence under this section
- (a) the Certificate of Recognition granted to that national shall be cancelled by the Council;
 - (b) the permission granted to that national under this Act is revocable at the discretion of the Minister; and
 - (c) the convicted national is not entitled to be eligible for any permission under this Act.
- (3) A Community national who commits an offence under this Act is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 3 years or to both.

Regulations

- 12.(1)** The Minister may make regulations
- (a) regulating the issue, amendment, revocation or replacement of Certificates of Recognition;
 - (b) providing for the establishment and maintenance of a register of persons to whom or in respect of whom qualifying certificates have been issued, amended, revoked or replaced;
 - (c) prescribing particulars, qualifications or combinations thereof, additional to those listed in the *First Schedule*, as qualifications which satisfy the qualification requirements of this Act;

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- (d) providing for the issue to any person who is exempt from any of the provisions of this Act of a certificate stating the nature of the exemption;
 - (e) with respect to the surrender or cancellation of any qualifying certificate issued by the Minister; and
 - (f) generally to give effect to this Act.
- (2) Regulations made under this section shall be subject to negative resolution.

Amendment of Schedules

13. The Minister may by order amend any of the *Schedules* to this Act.

Repeal of sections 17A to 17E of Cap. 190

14. *[Sections 17A, 17B, 17C, 17D and 17E of the Immigration Act, Cap. 190 are repealed.]*

FIRST SCHEDULE

(Sections 2, 4(2)(b) and 12(1)(c))

PART A**QUALIFICATIONS REQUIRED FOR THE ISSUE OF A QUALIFYING
CERTIFICATE**

1. A degree, diploma or equivalent qualification from the University of the West Indies, University of Guyana, University of Suriname or any other University or institution of higher learning or equivalent institution approved by the Minister responsible for Education.
2. Membership or accreditation to a professional body and compliance with the Laws of Barbados regulating the profession.
3. Any qualification or combination of qualifications specified in a list prescribed by the Minister by order published in the *Official Gazette* as a list of qualifications and combinations of qualifications satisfying the qualification requirements of this Act.
4. A certificate from the Secretary-General of the Caribbean Community attesting that qualifications possessed by the applicant satisfy the conditions for recognition of Caribbean Community skills qualification.
5. A certificate from any authority designated by the Minister by order as an accrediting authority for the purposes of this Act, attesting that qualifications possessed by the applicant satisfy the conditions for recognition of Caribbean Community skills qualification.

The authority referred to in this paragraph includes

- (a) an institution or other body, whether incorporated or not, whether or not established under the authority of the Government of Barbados or

any other qualifying Caribbean Community state, whether or not established under any written law, and whether or not situated in Barbados;

- (b) any person designated as holding an office in any institution or other body in sub-paragraph (a); and
- (c) any public officer appearing to the Minister to have technical expertise in the assessment of qualifications.

PART B

OCCUPATIONS ELIGIBLE FOR THE ISSUE OF A QUALIFYING CERTIFICATE

1. Persons certified by the competent authority of a qualifying Caribbean Community state as representing that state in sports.
2. Musicians, artistes and media workers certified as such by the competent authority of the qualifying Caribbean Community state of which such persons are nationals.

For the purposes of paragraphs 1 and 2, “competent authority” means an institution or body responsible for sports, culture or the media respectively.

SECOND SCHEDULE*(Section 2)**Qualifying Caribbean Community States*

1. Antigua and Barbuda.
2. Barbados.
3. Belize.
4. Dominica.
5. Grenada.
6. Guyana.
7. Haiti.
8. Jamaica.
9. St. Christopher and Nevis.
10. St. Lucia.
11. St. Vincent and the Grenadines.
12. Suriname.
13. Trinidad and Tobago.

THIRD SCHEDULE*(Sections 4(2)(a), 5)*





FOURTH SCHEDULE

(Sections 2, 6)



FIFTH SCHEDULE*(Sections 8(1) and (2) and 10(1))***PROHIBITED COMMUNITY NATIONALS**

1. Persons who are likely to become charges on public funds.
2. Persons suffering from communicable diseases within the meaning of any regulations relating to such diseases made under the *Health Services Act*, Cap. 44.
3. Persons whose conduct offends public morality.
4. Persons who
 - (a) are or have been at any time engaged or reasonably suspected of being likely to engage in the unlawful giving or using, the offering or exposing for sale or buying of, or the trading or trafficking in, any drug; or
 - (b) have been convicted of an offence under any enactment relating to dangerous or narcotic drugs, other than persons referred to in paragraph 5 who have been convicted of the offence of possession of a controlled drug under the *Drug Abuse (Prevention and Control) Act*, Cap. 131, the amount of which was less than a traffickable quantity.
5. Persons who
 - (a) have been convicted of, or admit to having committed, a criminal offence which, if committed in Barbados, is punishable on indictment;
 - (b) knowingly or for profit, aid, encourage or procure other persons who are not citizens of Barbados to enter Barbados illegally; or
 - (c) are stowaways or seek to enter Barbados illegally.

- 6.** Persons who are or have been at any time advocates of

 - (a) the overthrow by force or violence of the Government of Barbados or any other country or of all forms of law;
 - (b) the abolition of organised government; or
 - (c) the assassination of any person or the unlawful destruction of property.
- 7.** Persons who are or have been members of or affiliated to any organisation which entertains or teaches any doctrine or practice specified in subparagraphs (a) to (c) of paragraph 6.
- 8.** Persons who have been convicted of the offence of terrorism, or in respect of whom there are reasonable grounds for believing that they have financed or facilitated acts of terrorism or are financing or facilitating acts of terrorism.
- 9.** Persons in respect of whom there are reasonable grounds for believing that they are likely to engage in espionage, sabotage or other subversive activity directed against or detrimental to the security of Barbados.
- 10.** Persons against whom deportation orders have been made.
- 11.** Persons seeking to enter Barbados who are not in possession of a passport or other form of identification in accordance with section 3(2)(a).
- 12.** Any dependant accompanying a person who has been prohibited from entering, refused entry into, or deported from, Barbados.