

THE CARIBBEAN COMMUNITY (FREE MOVE-
MENT OF SKILLED PERSONS) ACT

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SCHEDULES

**CARIBBEAN COMMUNITY (FREE MOVEMENT
OF SKILLED PERSONS)**

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**THE CARIBBEAN COMMUNITY (FREE MOVE-
MENT OF SKILLED PERSONS) ACT**

Acts
18 of 1997,
37 of 2004
S. 29.

[15th July, 1997.]

1. This Act may be cited as the Caribbean Community (Free Movement of Skilled Persons) Act. Short title.

2.—(1) In this Act—

Interpreta-
tion.

“Caribbean Community” means the Caribbean Community established by Article 2 of the Revised Treaty of Chaguaramas signed in the Bahamas on the 5th day of July, 2001 and includes the CARICOM Single Market and Economy;

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“Caribbean skilled person” means any national who is recognized by the Minister as being a member or employee of a recognized organization or is the holder of a qualification or performs an occupation specified in the First Schedule.

First
Schedule.

“dependant” in relation to a national means—

- (a) the spouse of that national;
- (b) any unmarried child or step-child under the age of eighteen years of that national; and
- (c) any unmarried child under the age of eighteen years adopted by that national in a manner recognized by law;

“immigration officer” means any immigration officer appointed by the Governor-General under the Aliens Act;

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“Member State” means a Member State of the Caribbean Community excluding an Associate Member within the meaning of Article 231 of the Revised Treaty of Chaguaramas;

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“national” means a person who—

(a) is a citizen of a Member State; or

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

“property” includes real and personal property;

Third
Schedule.

“qualifying certificate” means a certificate of recognition of Caribbean Community skills issued by the Minister responsible for labour in the form specified in the Third Schedule;

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

“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 five years immediately preceding the date of the application under this Act;

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- (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 five years immediately preceding the date of the application under this Act.

(2) For the purposes of this Act, where the qualifying Caribbean Community state is Montserrat, a valid passport or other form of identification approved by the Minister showing the holder—

- (a) to be a citizen of the United Kingdom and Colonies or a British Dependent Territories citizen; and

- (b) to have been born in Montserrat,

shall be deemed to be issued in Montserrat.

3.—(1) Notwithstanding the provisions of any other law, an immigration officer shall, subject to section 5, permit a national to whom this section applies and any dependant of such national to enter and remain in Jamaica for an indefinite period.

Indefinite
entry of
Caribbean
skilled
persons, etc.
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(2) This section applies to a national who—

- (a) holds a valid passport issued to him by a Member State or other form of identification approved by the Minister;

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- (b) seeks to enter the Island for the purpose of engaging in or finding gainful employment with an employer or as a self-employed person; and

- (c) presents to the immigration officer on entry into the Island a qualifying certificate certifying that he is recognized by the Minister as a Caribbean skilled person.

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Provisional
entry of
Caribbean
skilled persons
and depen-
dants.
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4.—(1) Notwithstanding the provisions of any other law, an immigration officer shall, subject to section 5, permit a national to whom this section applies and any dependant of such national to enter and remain in the Island for a period not exceeding six months.

(2) This section applies to a national who—

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- (a) holds a valid passport issued to him by a Member State or other form of identification approved by the Minister;
- (b) seeks to enter the Island for the purpose of engaging in or finding gainful employment with an employer or as a self-employed person; and
- (c) presents to the immigration officer on entry into the Island a certificate issued by the competent Minister of a Member State certifying that the holder of the passport is recognized by the Government of that Member State as being a Caribbean skilled person.

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Prohibited
Caribbean
skilled
persons.

5.—(1) Subject to subsection (2), an immigration officer shall not permit a Caribbean skilled person or any dependant of such person to land in the Island if that person—

- (a) is likely, if he enters the Island, to become a charge on public funds;
- (b) is a person of unsound mind or a mentally defective person;
- (c) is, on the basis of available information communicated to the Minister, suffering from a communicable disease which makes his entry into the Island dangerous;
- (d) is, from information or advice, which in the opinion of the Minister is reliable information or advice, deemed by the Minister to be an undesirable inhabitant of, or visitor to, the Island; and

(e) is a subject of a deportation order in force under the Deportation (Commonwealth Citizens) Act.

(2) Notwithstanding subsection (1), the Minister may exempt any Caribbean skilled person from the provisions of paragraphs (a) to (e) of subsection (1).

6.—(1) A person who satisfies the requirements for recognition as a Caribbean skilled person may apply to the Minister for a qualifying certificate.

Application
for qualify-
ing certi-
ficate.

(2) An application under this section shall be in such form and be accompanied by such fee as the Minister may, by order, prescribe.

7.—(1) Subject to subsection (2), the Minister shall grant a qualifying certificate to every applicant who satisfies the requirements for recognition as a Caribbean skilled person.

Minister
to grant
certificate
to qualified
applicants.

(2) The Minister may refuse to issue a qualifying certificate to a person referred to in section 5 and to any person who has been convicted of an offence against section 11 or a similar offence under the laws of a Member State.

8. Notwithstanding the provisions of any other Act a Caribbean skilled person and every dependant of such person who are permitted to enter the Island under this Act shall not be subject to any restriction on—

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Effects of
entry
permission.

- (a) freedom of movement, including the freedom to leave and re-enter Jamaica without further permission;
- (b) the freedom to acquire property for use as the residence or business of such persons; or
- (c) the right to engage in gainful employment or other occupation,

which would not apply if those persons were nationals of Jamaica.

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Revoca-
bility of
permission.

9. Notwithstanding the provisions of any other law, permission granted under this Act to a Caribbean skilled person to enter the Island and the rights conferred on that person under section 8 shall not be revocable except for cause and by procedure which would, apart from this Act, render a national of Jamaica liable to deportation, extradition or other form of expulsion from the Member State of which the Caribbean skilled person is a national.

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Offences
and penal-
ties.

10.—(1) A person commits an offence if—

(a) for the purpose of procuring a qualifying certificate or for the purpose of seeking permission under this Act to enter the Island, he—

(i) makes any statement, for himself or any other person, knowing such statement to be false in a material particular; or

(ii) recklessly makes any statement which is false in a material particular;

(b) uses a certificate issued by the competent Minister of a Member State knowing that it has been cancelled by the Government of that state;

(c) uses a qualifying certificate knowing that it has been cancelled by the Minister.

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(2) Conviction of an offence under this section shall—

(a) render a qualifying certificate liable to cancellation at the discretion of the Minister;

(b) render a permission granted under this Act revocable at the discretion of the Minister; and

(c) disentitle any person so convicted of the right to any permission under this Act.

(3) Any person who commits an offence under this Act shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

11.—(1) The Minister may make regulations generally for giving effect to the provisions of this Act and without prejudice to the generality of the foregoing may make regulations— Regulations.

- (a) regulating the issue, amendment, revocation or replacement of qualifying certificates and for the payment of fees by the person applying therefor;
- (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) providing for the issue to any person who is exempt from any of the provisions of this Act a certificate stating the nature of the exemption;
- (d) with respect to the surrender or cancellation of any qualifying certificate issued by the Minister;
- (e) amending the First and Third Schedules;
- (f) prescribing the forms to be used for the purposes of this Act;
- (g) prescribing any other matter or thing required to be prescribed under this Act.

First and
Third
Schedules.
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(2) Regulations made under this section shall be subject to negative resolution.

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12. [Deleted by Act 37/2004, S. 29]

FIRST SCHEDULE

(Sections 2, 4, 8 and 11)

*Qualifications and Occupations Required for the Issue of a
Qualifying Certificate*

1. A degree of the University of the West Indies or the University of Guyana designated as a Bachelor's, Master's or Doctor's degree.
2. A degree of Doctorandus, Meester, Licentiatu or Doctor of the University of Suriname.
3. Any qualification or combination of qualifications specified in a list—
 - (a) compiled from time to time by the University Council of Jamaica for purposes of this Act; and
 - (b) prescribed by the Minister by order published in the *Gazette* as a list of qualifications and combinations of qualifications satisfying the qualification requirements of this Act.
4. Any qualification or combination of qualifications possessed by an applicant which is certified by the University Council of Jamaica as satisfying the conditions for recognition of Caribbean Community skills qualification, whether or not any such qualification or combination of qualifications is prescribed under paragraph 3.
5. Persons certified by the competent authority of a Member State as representing that state in sports.
6. Musicians, artistes and media workers certified as such by the competent authority of the Member State of which such persons are nationals.

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SECOND SCHEDULE [Deleted by Act 37/2004, S. 29.]

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THIRD SCHEDULE (Sections 2, 4, and 11)

JAMAICA

THE CARIBBEAN COMMUNITY (FREE MOVEMENT OF SKILLED PERSONS) ACT
Certificate of Recognition of Caribbean Community Skills

WHEREAS has applied to the Minister for a Certificate of Recognition of Caribbean Community Skills, in reliance on the requirements set out in the Schedule, and has satisfied the Minister that the conditions laid down in the Caribbean Community (Free Movement of Skilled Persons) Act for the grant of a Certificate of Recognition of Caribbean Community Skills have been fulfilled:

NOW, THEREFORE, I,, the Minister, in exercise of the power conferred upon me by the said Act, hereby grant to the said this Certificate of Recognition of Caribbean Community Skills.

SCHEDULE

Particulars Relating to Applicant

PHOTOGRAPH/S

(of national and
each dependant)

FULL NAME:

ADDRESS:

PLACE OF BIRTH:

DATE OF BIRTH:

NATIONALITY:

PASSPORT NO.:

MARITAL STATUS:

OCCUPATION:

QUALIFICATION:

NAMES AND AGES OF ACCOMPANYING DEPENDANTS:

PASSPORT NO. OF DEPENDANTS:

In witness whereof I hereto subscribe my name this day of

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Minister responsible for labour.