

BELIZE:

IMMIGRATION (AMENDMENT) (NO. 2) ACT, 2020

ARRANGEMENT OF SECTIONS

1. Short title.
2. Deletion and insertion of definitions.
3. Amendment of section 10.
4. Amendment of section 19A.
5. Insertion of sections 19B, 19C, 19D, 19E, 19F, 19G, 19H, 19I and 19J.



No. 28 of 2020

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

5th October, 2020

AN ACT to amend the Immigration Act Chapter 156 of the Substantive Laws of Belize, Revised Edition 2011; in relation to the movement of nationals of Caribbean Community States; to provide for the expansion of the definition of dependant to include spouses and dependants of the national; the inclusion of new definitions, the clarification of the periods of automatic and indefinite stay for nationals of Caribbean Community States; the inclusion of Haiti to the list of qualifying Caribbean Community States; and to provide for matters connected therewith or incidental thereto.

(Gazetted 7th October, 2020).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

Short title.

IMMIGRATION (AMENDMENT) (NO. 2)
ACT, 2020.

CAP. 156.
1 of 2014.
13 of 2016.
46 of 2017.

Deletion and
insertion of
definitions.

and shall be read and construed as one with the Immigration Act, which is hereinafter referred to as the principal Act.

2. The principal Act is amended by—

- (a) deleting the definition of “CARICOM Member State”;
- (b) deleting the definition of “dependent”; and
- (b) inserting the following new definitions in the appropriate alphabetical sequence—

“Caribbean Community State” means a State which is a member of the Caribbean Community and a party to The Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy;

“Caribbean Community skilled person” means a national who is the holder of a qualification or performs an occupation as set out in the First Schedule to the Caribbean Community (Free Movement of Skilled Persons) Act;

Cap. 17:02.

“department” means the Border Management and Immigration Services Department;

“dependant” in relation to a national of a Caribbean Community State means—

- (a) the spouse of the national;
- (b) an unmarried adopted child of the national who was adopted in a manner recognised by the law, or an unmarried child or step-child of the national, who is—
 - (i) under the age of eighteen;

- (ii) under the age of twenty-five and attending school or university as a full time student; or
- (iii) over the age of seventeen and who, due to disability, is wholly dependent on the national;
- (c) a parent or grandparent of the national, who is wholly dependent on the national; or
- (d) any other natural person certified as a dependant, by order of the Court.

“Minister” means the Minister responsible for immigration;
“National” in relation to a person from a Caribbean Community State means—

- (a) a person—
 - (i) who is a citizen by birth, descent or naturalization of; or
 - (ii) belonging to,

a qualifying Caribbean Community State within the meaning of the laws of that State; or

- (b) a person who—
 - (i) is a citizen of that State;
 - (ii) has a connection with that State of a kind which entitles him to be regarded as belonging to or, if it be so expressed, as being a native of the State for the purposes of the laws relating to immigration; or

“spouse” includes–

- (a) in relation to a woman, a man who is living with or has lived with the woman as her husband, for a period of not less than five years, neither person being married to anyone else or each other, immediately preceding the date of the application under this Act; or
- (b) in relation to a man, a woman who is living with or has lived with the man as his wife, for a period of not less than five years, neither person being married to anyone else or each other, immediately preceding the date of the application under this Act;

“step-child” means the child of one’s spouse;

“Treaty” means The Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy;”.

3. The principal Act is amended in section 10(1)(a) by inserting immediately after the word “permit” occurring in the fourth line, the words “or granted indefinite stay under section 19E(4)”.

Amendment of section 10.

4. The principal Act is amended in section 19A by deleting the–

Amendment of section 19A

- (a) word “11,”; and
- (b) words “CARICOM Member State” and substituting them with the words “Caribbean Community State”.

5. The principal Act is amended by inserting immediately after section 19A the following new sections–

Insertion of new sections 19B, 19C, 19D, 19E, 19F, 19G, 19H, 19I and 19J.

“Provisional
entry to
Caribbean
Community
nationals.

Cap. 17:02.

19B.-(1) Notwithstanding the provisions of any other law, an immigration officer shall, subject to section 5 of the Caribbean Community (Free Movement of Skilled Persons) Act, permit a national, the spouse or any dependant of that national, to enter and remain in Belize for a period of six months.

(2) The spouse or any dependant of a national under subsection (1), who is unaccompanied by the national, shall be permitted to enter and remain in Belize for the period specified under subsection (1).

(3) The spouse or any dependant of a national under subsection (1), shall present the following information to the immigration officer, upon entry -

- (a) proof of their relation to the national; and
- (b) a copy of the qualifying certificate of the national.

Prohibited
nationals.

19C.-(1) An immigration officer shall not permit a national to enter into Belize if the national-

- (a) is likely, if the national enters Belize, to become a charge on public funds;
- (b) is, on the basis of available information communicated to the Minister, suffering from an illness which makes entry of the national into Belize dangerous; or

(c) is a subject of a deportation order in force under the Deportation (British Subjects) Act.

(2) Notwithstanding subsection (1), the Minister may, where the Minister determines necessary, permit any national of a Caribbean Community State to enter Belize.

Application
for qualifying
certificate.

19D.—(1) A national may apply to the Minister for a qualifying certificate in the prescribed form and pay the prescribed fees.

(2) The Minister may approve or refuse an application under subsection (1), and where the application is approved, issue the qualifying certificate within six weeks of receipt of the application.

(3) the Minister may refuse an application to—

(a) a person under section 5 of the Caribbean Community (Free Movement of Skilled Persons) Act; or

(b) a person who commits an offence under section 10 of the Caribbean Community (Free Movement of Skilled Persons) Act.

Cap. 17:02.

Cap. 17:02.

(4) An applicant shall remain in Belize for a period not exceeding the expiration of the provisional period of entry stated in section 3.

Application
for indefinite
stay to engage
in gainful
employment.

Cap. 17:02.

19E.— (1) Notwithstanding the provisions of any other law, a national who seeks to remain in Belize beyond the period stated in section 19B, for the purpose of engaging in or finding gainful employment with an employer or as a self-employed person, shall, within thirty days from the date of expiration of that period, submit an application to the department in the approved form together with—

- (a) the qualifying certificate issued by the competent authority of a qualifying Caribbean Community State certifying that the national is recognised by the Government of that qualifying Caribbean Community State as a Caribbean Community skilled person,
- (b) a valid passport, valid for at least six months from the date of entry, issued by a qualifying Caribbean Community State to the national, the spouse or any dependant of the national, or other form of identification issued by the Minister to the national, the spouse or any dependant of the national;
- (c) the approved fee; and
- (d) a police record of—
 - (i) the national;
 - (ii) the spouse of the national; or

(iii) any dependant, above the age of seventeen, of the national.

(2) The department shall submit the qualifying certificate submitted under subsection (1)(a), to the Ministry with responsibility for Trade for verification of its validity.

(3) A national under subsection (1), the spouse, or any dependant of the national, may engage in gainful employment with an employer or as a self-employed person, pending the verification of validity of the qualifying certificate.

(4) Subject to section 5 of the Caribbean Community (Free Movement of Skilled Persons) Act, the department shall, within thirty days of submission of an application, grant the applicant, or the spouse or any dependant of that applicant, indefinite stay.

Cap. 17:02.

Restrictions on rights.

19F. Notwithstanding the provisions of any other law, a Caribbean Community skilled person, the spouse or any dependant of the Caribbean Community skilled person, permitted to enter Belize under this Act shall not be subject to any restriction on—

(a) freedom of movement, including the freedom to leave and re-enter Belize without further permission;

(b) the freedom to acquire property for use as a residence or business of the Caribbean Community skilled person; or

- (c) the right to engage in gainful employment or other occupation,

which restriction would not be applicable if the Caribbean Community skilled person were a national of Belize.

Revocation of permission.

Cap. 17:02.

19G. Notwithstanding the provisions of any other law, permission granted under this Act to a Caribbean Community skilled person to enter Belize and the rights conferred on that person under section 8 of the Caribbean Community (Free Movement of Skilled Persons) Act, shall not be revocable except for cause and by procedure which would, apart from this Act, render a national of Belize liable to deportation, extradition or other form of expulsion from the qualifying Caribbean Community State of which the Caribbean Community skilled person is a national.

Provisional entry to establish an economic enterprise.
Cap. 17:03.

19H.— (1) Notwithstanding the provisions of any other law, an immigration officer shall, subject to section 7 of the Caribbean Community (Movement of Factors) Act, permit a national seeking to enter Belize for the purpose of establishing an economic enterprise, the spouse or any dependant of that national, to enter and remain in Belize for a period of six months.

(2) A national under subsection (1) shall provide to the immigration officer upon entry into Belize—

- (a) a valid passport, valid for at least six months from the date

of entry, issued to the national by a qualifying Caribbean Community State;

- (b) a return ticket; and
- (c) proof of financial resources sufficient for personal maintenance, such as credit cards, traveller's cheques, cash or a combination of any.

Application for indefinite stay to establish or operate an economic enterprise.

19I.— (1) Notwithstanding the provisions of any other law, a national seeking to remain in Belize beyond the period stated in section 19H for the purpose, of establishing or operating an economic enterprise shall within 30 days from the date of expiration of that period, submit an application, in the prescribed form to the department together with—

- (a) a valid passport, valid for at least six months from the date of entry, issued to the national by a qualifying Caribbean Community State;
- (b) proof of financial resources;
- (c) the business name registration or a certificate of incorporation, for the economic enterprise the applicant intends to establish;
- (d) a business plan for the economic enterprise the applicant intends to establish;

- (e) where applicable, the equivalent Board of Inland Revenue and General Sales Tax registration numbers for the applicant, from the Caribbean Community State where the economic enterprise is registered;
- (f) proof that the applicant is the title owner or the holder of a registered lease for the property the applicant intends to use for the business;
- (g) where applicable, written permission from the landlord or lessor to operate the economic enterprise from the premises;
- (h) proof of registration with the Social Security Board;
- (i) where applicable, all relevant trade or professional licences that may be required for the operation of the economic enterprise;
- (j) a police record of—
 - (i) the national;
 - (ii) the spouse of the national; or
 - (iii) any dependant, above the age of seventeen, of the national; and

(k) the approved fee.

(2) An application under subsection (1) may include the spouse or any dependant of the applicant and the spouse or any dependant of the applicant shall be permitted to enter and remain in Belize for the same period that the national is permitted.

(3) A national, the spouse or any dependant of the national, shall not engage in employment with an employer or as a self-employed person, while the verification of validity of the qualifying certificate is pending.

(4) The department shall submit the business name registration or the certificate of incorporation for the economic enterprise which the national intends to establish, to the Company Registry for verification of its validity.

Cap. 17:02.

(5) Subject to section 5 of the Caribbean Community (Free Movement of Skilled Persons) Act, upon the written recommendation of the Ministry with responsibility for Trade, the department shall, within thirty days of submission of an application, under subsection (1), approve or refuse the application.

(6) Where an application is approved, the department shall grant indefinite stay to—

(a) the national, to establish an economic enterprise; and

(b) the spouse or any dependant of the national.

(7) A national who is granted indefinite stay under subsection (6), shall establish the economic enterprise within six months of the grant of indefinite stay.

(8) Subject to section 5, where an application is refused, the national, the spouse or any dependant of the national, shall remain in Belize for a period not exceeding the expiration of the provisional period of entry stated under section 19H(1) or any extension period approved under subsection (15).

(9) A national under subsection (6), may request, in writing, to the department, for any managerial, supervisory or technical staff of the economic enterprise to be permitted to enter and remain in Belize during the period of employment with the economic enterprise.

(10) A request under subsection (9), shall—

(a) be in relation to a person who is a national of a qualifying Caribbean Community State; and

(b) include the employment contract of the managerial, supervisory or technical staff.

(11) The department may approve or refuse a request under subsection (9).

(12) Where the department approves a request, the department shall endorse the passport of the managerial, supervisory

or technical staff, within thirty days of submission of the passport.

(13) A national who was granted indefinite stay under subsection (1), and has not established the economic enterprise within the period under section 19I(7), may submit an application to the department, for an extension of time to establish the economic enterprise, together with a letter outlining the steps taken by the national to establish the economic enterprise and indicating the reasons the economic enterprise is not established.

(14) Where the department is satisfied with the explanation and reasons provided by the national under subsection (13), the department shall approve an extension of no more than three months.

(15) A national who is granted indefinite stay under subsections (5) or a request under subsection (12), and is, no longer operating the economic enterprise or no longer employed with the national who made the request, shall immediately inform the department of the change in circumstance in order for the department to register the change in the status of the national.

(16) The department shall rescind the indefinite stay or request granted to a national under subsections (5) or (12) where the reasons for the grant of indefinite stay or the permission no longer exists or has changed.

19J. The department may refuse an application for an extension under section

Grounds for
refusal.

19I(13) on the following grounds, namely that—

- (a) a principal of the economic enterprise is convicted of an offence involving fraud or dishonesty;
- (b) the economic enterprise is conducting an illegal activity;
- (c) the economic enterprise does not have sufficient capital to establish the economic enterprise; or
- (d) the economic enterprise is deemed not to be a viable business.”