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IMMIGRATION (AMENDMENT) ACT, 2019

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No. 7 of 2019

IMMIGRATION (AMENDMENT) ACT, 2019

AN ACT TO AMEND THE IMMIGRATION ACT TO MAKE PROVISON FOR THE BH-1B WORK VISA AND THE BH-4S PERMIT; TO PROVIDE FOR WORK VISA EXEMPTIONS AND FOR CONNECTED MATTERS

[Date of Assent - 4th June, 2019]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

(1) This Act, which amends the Immigration Act (*Ch. 191*), may be cited as the Immigration (Amendment) Act, 2019.

(2) This Act shall come into force on such date as the Minister may appoint by notice published in the *Gazette*.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended by the insertion of the following definitions in the appropriate alphabetical order —

""**BH-1B work visa**" means a work visa biometric card granted, in accordance with section 30B, to a person who has permission to engage in gainful occupation in The Bahamas pursuant to the grant of a specified commercial enterprise certificate issued under the Commercial Enterprises Act, 2017 (*No. 19 of 2017*);

"**BH-4S permit**" means a permit biometric card granted in accordance with section 30C to a person who is the spouse or dependant child of the holder of a BH-1B work visa, and which permits such person to reside in The Bahamas or enrol in educational institutions in The Bahamas for the duration of the permit;

"**biometric card**" means a card containing biometric data and features;

"**biometric data and features**" means —

(a) digitized fingerprints;

(b) machine-readable facial images;

(c) machine-readable biographical data; and

(d) digital signatures;

"dependant" means a person —

(a) who is under the age of eighteen years;

(b) who, having attained the age of eighteen, but not twenty-two years, is —

(i) receiving full-time instruction at an educational institution, whether in The Bahamas or overseas;

(ii) undergoing training for a trade, profession or vocation at an institution, whether in The Bahamas or overseas, in such circumstances that he is required to devote the whole of his time to that training; or

(c) whose earning capacity is impaired through illness or disability of the mind or body, and who has not attained the age of twenty-two years;

"short-term work visa" means a work visa biometric card issued in accordance with prescribed regulations to a person who desires to remain in The Bahamas for periods of three months or less for the purpose of engaging in gainful occupation;

"specified commercial enterprise certificate" means a certificate issued to a commercial enterprise under section 7(1) of the Commercial Enterprises Act, 2017 (*No. 19 of 2017*) that entitles such enterprise to a specified number of work visas for specified posts;

"work visa" means a visa biometric card issued in accordance with prescribed regulations that permits the holder thereof to engage in gainful occupation in The Bahamas for the duration of the visa.".

3. Insertion of new sections 30B and 30C into the principal Act.

The principal Act is amended by the insertion, immediately after section 30A, of the following —

"30B. Grant of BH-1B work visa.

(1) An application for a BH-1B work visa shall be made in the prescribed form and submitted to the Director of Immigration along with the prescribed fee by any person who —

(a) having received a specified commercial enterprise certificate or being an in-house professional who is designated in writing by such person, enters The Bahamas pursuant to section 7(3) of the Commercial Enterprises Act, 2017 (*No. 19 of 2017*); or

(b) being employed by a specified commercial enterprise, is the holder of a specified post referred to in section 2 of the Commercial Enterprises Act, 2017 (*No. 19 of 2017*).

(2) Although a person referred to in subsection (1)(a) is entitled entry into The Bahamas pursuant to section 7(3) of the Commercial Enterprises Act, 2017 (*No. 19 of 2017*), an application for a BH-1B work visa in respect of such person must, within thirty days of his entry into The Bahamas, be submitted to the Director of Immigration.

(3) The Director of Immigration shall, upon payment of the prescribed fee, determine an application for a BH-1B work visa no later than fourteen working days from the date of the filing of such application, and may grant a BH-1B visa to the applicant.

(4) If any application is not determined within fourteen working days from the filing thereof, a BH-1B work visa —

(a) is deemed to have been granted by the Director of Immigration; and

(b) shall be issued in the prescribed form to an applicant in respect of the specified commercial enterprise for which a specified commercial enterprise certificate has been granted.

(5) The Director of Immigration may revoke the grant of a BH-1B work visa if the Director of Immigration has reasonable grounds for so doing on the basis of public safety, public morality or national security.

(6) A BH-1B work visa is valid for a period of three years and may, subject to the discretion of the Director of Immigration, be renewed for a further period not exceeding three years.

30C. Grant of BH-4S permit.

(1) Subject to the approval and grant of a BH-1B work visa, the Director of Immigration may, upon application made in the prescribed form and payment of the prescribed fee, grant a BH-4S permit in the prescribed form to the spouse and any dependant children of the holder of a BH-1B work visa.

(2) Upon the grant of a BH-4S permit, the Director of Immigration shall issue a BH-4S permit biometric card in the prescribed form, which shall —

(a) entitle the holder thereof to reside in The Bahamas or enrol in educational institutions in The Bahamas; and

(b) be valid for a period of three years and may, subject the renewal of a corresponding BH-1B work visa, be renewed for a further period not exceeding three years.

(3) For the avoidance of doubt, the grant of a BH-4S permit does not permit the holder thereof to engage in gainful occupation in The Bahamas.".

4. Insertion of new section 32A into the principal Act.

The principal Act is amended by the insertion, immediately after section 32, of the following —

"32A. Exemption from requirement of work visa, etc.

(1) No person is required to obtain a work visa or short-term work visa if that person enters The Bahamas for the purpose of engaging in any activity listed in subsection (2) for a period not exceeding fourteen days and the activity is the only activity in which that person is so engaged.

(2) The activities referred to in subsection (1) are —

(a) attending a conference or seminar as a participant, excluding the organisers of such conference or seminar;

(b) attending a trade show or summit, excluding the organisers of such show or summit;

(c) working as a non-executive director of a business being carried on in The Bahamas, where such person is not involved in the day to day operations in The Bahamas, but is visiting in his capacity as non-executive director only;

(d) attending a business meeting with a local company in the capacity of —

(i) chairman;

(ii) director;

(iii) shareholder;

(iv) chief executive officer;

(v) chief operating officer;

(vi) chief financial officer;

(vii) consultant;

(viii) legal counsel;
(ix) compliance officer;
(x) accountant;
(xi) auditor;
(xii) actuary;
(xiii) medical professional;
(xiv) controller;
(xv) analyst; or
(xvi) manager.".

5. Consequential amendments.

The Commercial Enterprises Act, 2017 (*No. 19 of 2017*) is amended to the extent specified in the second column of the Schedule.

SCHEDULE

(section 5)

ACT	AMENDMENT
Commercial Enterprises Act, 2017 (*No. 19 of 2017*)	(1) Section 2 of the principal Act is amended — (a) by the insertion, in the appropriate alphabetical order, of the following definitions — **"BH-1B work visa"** has the meaning assigned to it under the Immigration Act (*Ch. 191*); **"specified posts"** includes those posts within a specified commercial enterprise that require the holder to possess operational expertise and technical capabilities that are key to the proper

	functioning of the specified commercial enterprise;". (2) The principal Act is amended by the deletion of the words "work permit" and "permit" wherever they may occur and the substitution of the words "BH-1B work visa".