



GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: G____ of 2025

MATTER OF AN APPEAL UNDER SECTION 23(2) OF THE IMMIGRATION
TION) ACT

IN THE MATTER OF ORDER 55 OF THE GRAND COURT RULES

BETWEEN

CHRIS JOHNSON ASSOCIATES LTD

Appellant

AND

WORK PERMIT BOARD

1ST Respondent

-&-

IMMIGRATION APPEALS TRIBUNAL

2nd Respondent

NOTICE OF ORIGINATING MOTION

TAKE NOTICE that the Grand Court at the Law Courts, George Town, Grand Cayman will be moved on the _____ day of _____ at _____ a.m./p.m. or as soon thereafter as counsel can be heard, by counsel on behalf of the Appellant for an order in the following terms:

This Motion was filed by HSM Chambers, Attorneys at Law for and behalf of the Plaintiff herein whose address for service and correspondence is 68 Fort Street, George Town, PO BOX 31726, Grand Cayman KY1-1207, Cayman Islands

- i. The decision of the First Respondent dated 12 March 2025 and the decision of the Second Respondent dated 7 November 2025 were erroneous in law, unreasonable and / or a breach of natural justice.
- ii. The second specific condition imposed on the work permit dated 12 March 2025 is quashed.
- iii. The First and/or Second Respondent shall pay the Appellant's costs of the appeals before the IAT and before this Court.
- iv. Such further or other relief as is needed to give effect to the Court's judgment.

AND FURTHER TAKE NOTICE that the grounds of this appeal are:

A. INTRODUCTION

1. This appeal is brought under section 23(2) of the Immigration (Transition) Act ("**the Act**"). Chris Johnson Associates Ltd. ("**the Appellant**") appeals against a decision of the Immigration Appeals Tribunal ("**the IAT**") dated 7 November 2025. By that decision, the IAT dismissed an appeal against the decision of the Work Permit Board ("**the Board**") dated 12 March 2025 to impose the following condition on the work permit of Bria Louise Bain: "*The work permit is non-extendable and non-renewable. A Caymanian must be recruited and trained to replace this worker*" ("**the impugned condition**").
2. In summary, the Board was wrong in law to impose the impugned condition and the IAT was wrong in law to dismiss the appeal because:
 - (1) Ground 1 – the impugned condition purported to oust the Board's statutory duty to consider any future renewal application and/or to fetter the future exercise of the Board's discretion to extend or renew the work permit.

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- (2) Ground 2 – the impugned condition was inconsistent with standard condition 2, which provided that an application for renewal would be considered on its own merits in the light of circumstances existing at the relevant time.
- (3) Ground 3 – the impugned condition was inconsistent with sections 37(5) and 38(4) of the Act in that it purported to oust the rights of a person with a relevant Residency and Employment Rights Certificate to accept the job.
- (4) Ground 4 – it was unlawful for the Board to compel the Appellant, on pain of criminal liability, to recruit and train a Caymanian replacement for Ms Bain.
- (5) Ground 5 – the Board failed to give adequate reasons for its decision.
- (6) Ground 6 – if the Board has a power to impose a condition in the terms of the impugned condition, it has failed to promulgate any policy to guide the exercise of that power.
- (7) Ground 7 – the IAT failed to give adequate reasons for its decision.

B. FACTS

- 3. The Appellant is a business recovery and insolvency practice, consisting of seven employees, four of whom are Caymanian and two of whom have permanent residency.
- 4. On 15 November 2024, the Appellant filed an application for a work permit to employ Ms Bain as an insolvency administrator. The application explained that the insolvency administrator required experience in a similar position and would need to be able (among other things) to set up and progress casework, including maintaining regulatory and statutory records, adhering to statutory deadlines, preparing insolvency documents for review, and managing insolvency filings to the General Registrar and Cayman Islands Monetary Authority. The application recorded that Ms Bain had the requisite experience and had obtained a distinction in the level 2 accountancy qualification (on top of a degree).

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The application explained that the role had been advertised on JobsCayman but that no applications had been received from Caymanians, persons married to Caymanians or Permanent Residents with the right to work.

5. On 17 March 2025, the Board granted Ms Bain a permit authorizing her to work for the Appellant as an insolvency administrator until 19 November 2025. The permit was stated to be subject to two specific conditions and five standard conditions.

6. The specific conditions were expressed as follows:

“(1) This work permit has been approved in accordance with section 66(1) of the Immigration (Transition) Act (2022 Revision). The maximum period that a worker may be allowed to reside continuously in the Cayman Islands is nine years. After such period of continuous residence a work permit will not be granted or renewed for the worker until the worker has ceased to hold a work permit for not less than one year after the worker has left the Islands.

Please note, that any person who has been and is legally and ordinarily resident within the Islands for a continuous period of at least eight years may apply in the prescribed form and manner to the Caymanian Status and Permanent Residency Board or the Director for permission for himself and his dependants if any, to reside permanently in the Islands.

(2) This work permit is non-extendable and non-renewable. A Caymanian must be recruited and trained to replace this worker.”

7. The standard conditions were expressed as follows:

“(1) You are hereby informed that under the existing Law and Regulations the granting of this permit in no way confers any entitlement to, or preference in connection with, the granting of any application for the renewal hereof or of any application for The Right to be Caymanian.

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(2) Application for renewals of a work permit, applications for a grant of Permanent Residence with right to work, applications for the grant of The Right to be Caymanian, are all considered on their own merits and in the light of circumstances existing at the relevant time.

(3) That the holder of this Work Permit will not be allowed to change his employer during the term of this Work Permit except in special extenuating circumstances and with the prior approval of the Board or Director of WORC as applicable.

(4) Without the prior consent of the Workforce, Opportunities & Residency Cayman the holder's authority to remain in the Islands ceases in the event that the permit is revoked, expires or if the employment is terminated.

(5) That the holder shall not be permitted to have any dependants or relatives not named on this Work Permit enter and remain or reside with the holder without prior approval.”

8. On 24 March 2025, the Appellant appealed against specific condition (2) to the IAT.
9. On 28 April 2025, the Work Permit Board gave a statement of reasons for its decision pursuant to section 21(6) of the Act. The Board's reasons were as follows:

“...the Board, in exercising its discretion will from time to time apply the ‘non-renewable’ and/or ‘non-extendable’ condition to a work permit, as a means to fostering local employment opportunities. In determining whether this condition should be applied, the Board's considerations include:

- The employer's efforts to recruit and hire Caymanians,
- The role's classification (whether skilled or unskilled),
- Compliance with local employment policies

The Board's approach in such matters is founded on its duty and responsibility under the Law to protect local interests, in particular of Caymanians.

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...

When reviewing the matter, the Board classified the position of Insolvency Administrator as an unskilled position and was of the view that a Caymanian is fully capable of fulfilling this role.

In light of the above, the Board approved the work permit with the condition that the work permit was non-extendable and non-renewable and that a Caymanian should be recruited and trained for the role.”

10. Thus, the Board did not explain:

- (1) Why it considered the position of insolvency administrator to be an unskilled position, what it made of “*the employer’s efforts to recruit and hire Caymanians*” or what it made of the Appellant’s “*compliance with local employment policies*”.
- (2) How it considered that the impugned condition could be imposed without fettering the Board’s statutory duty to consider applications to renew permits based on the circumstances existing at the time of the application for renewal.
- (3) How it considered that the impugned condition was consistent with standard condition (2).
- (4) Why it considered that the obligation that “A Caymanian must be recruited and trained to replace this worker” was necessary and reasonable.

11. On 1 July 2025, the Appellant submitted grounds of appeal. This document contained 33 pages of detailed submissions on the flaws in the Board’s approach. Those arguments are incorporated into the grounds of appeal below.

12. On 7 November 2025, the IAT issued its decision to dismiss the appeal. The totality of the IAT's reasoning was as follows:

“The Tribunal determined that no grounds had been established. The Board has the right to exercise their discretion and in doing so granted the worker a one-year permit with the condition as non-extendable, non-renewal and for a Caymanian to be recruited and trained to replace the worker. Therefore, said decision by the Board was not unreasonable, erroneous or contrary to principles of natural justice”.

13. The IAT did not engage with the Appellant's detailed submissions or explain why the IAT considered them to be wrong.

14. On 18 November 2025, the Appellant applied to renew Ms Bain's work permit, so as to preserve her position if this appeal is allowed.

C. GROUNDS OF APPEAL

C.1 Ground 1 – fettering of discretion

15. Section 13(3) of the Act provides that the Board is responsible for “*processing, determining and granting of applications for the grant or renewal of work permits*”.
16. Section 56(3) confers the following right on employers: “*a prospective employer of any person may apply for a work permit or the renewal thereof*” to the Director or the Board (emphasis added).
17. Section 56(5) provides that “*Notwithstanding anything contained in this Act, the Director of WORC or the designate of the Director of WORC shall process applications and otherwise make determinations in respect of – (a) the grant or renewal of a work permit*” (emphasis added).

18. Section 58(1) provides that the Director or the Board “*in considering an application under section 56 – (a) shall, in respect of an application for a grant; or (b) may, in respect of an application for a renewal, subject to any general directions which the Cabinet may, from time to time, give in respect of the consideration of such application, take into account the matters listed in subsections (2) to (4)*”. Subsection (2) provides for consideration of whether “*(a) the prospective employer has demonstrated that the prospective employer’s genuine need to engage the services of the prospective worker*”, “*(b) the prospective employer ...has registered the vacancy to which the application relates in an electronic portal established and managed by WORC for fourteen days...*”, and “*(c) in the case of an application in respect of a professional, managerial or skilled occupation, the Board or the Director of WORC, as the case may be, is satisfied as to the extent to which the prospective employer has established adequate training or scholarship programmes for Caymanians*”. Subsection (4) provides for consideration, “*generally*”, of “*(a) the protection of local interests and in particular of Caymanians, including without limitation and where applicable, the provisions set out in section 58(2)(c)*”, “*(b) the availability of the services of a suitable person already legally and ordinarily in the Islands*”, and “*(c) the requirements of the community as a whole, the demographics referred to in section 30(j) and such other matters that may arise from the application*”.
19. Section 63 provides that, when determining applications under section 56 for the grant or renewal of work permits, the Board may refuse the application, grant the application unconditionally or grant the application subject to conditions. The Act does not expressly limit the form of the conditions that may be imposed.
20. Section 63(11) provides that “*Prior to the ...refusal to renew, a work permit – (a) all objections shall be considered; (b) the applicant shall be given notice of all objections and allegations relating to the applicant and the applicant shall be afforded an opportunity to make written representation to the Board in respect thereof or, at the discretion of the Board, to appear before the Board to address such objections and allegations; ...*”.

21. Thus:

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- (1) Employers have a statutory right to apply for the renewal of work permits (s 56(3)).
 - (2) The Board has a statutory duty to determine applications for the renewal of work permits (s 56(5)).
 - (3) The Board must take into account certain matters, including the interests of Caymanians, when determining applications for the renewal of work permits (s 58).
 - (4) The power to impose conditions on work permits cannot be used to oust the statutory right to apply for renewal or the statutory duty to determine applications for renewal.
22. The Board cannot, when granting a work permit, make an advance decision that it will refuse a future application for the renewal of the work permit because that would breach the non-fettering principle. That principle was summarized by Lord Browne-Wilkinson in *R v Secretary of State for the Home Department, ex p Venables* [1998] AC 407, 496G-497C: “*the person on whom the power is conferred cannot fetter the future exercise of his discretion by committing himself now as to the way in which he will exercise his power in the future. ... By the same token, the person on whom the power has been conferred cannot fetter the way he will use that power by ruling out of consideration on the future exercise of that power factors which may then be relevant to such exercise*”.
23. It follows that the Board could not lawfully impose the impugned condition. The Board may, when exercising the statutory duty to consider any renewal application, properly have regard to an employer’s efforts to recruit Caymanians. But it cannot either (a) oust the statutory duty or (b) make an advance decision on how, if it is called upon to discharge that duty in the future, it will exercise its discretion.

C.2 Ground 2 – inconsistency with standard condition (2)

24. Regulation 5 of the Immigration Regulations provides:

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“Each work permit shall have an endorsement or be accompanied by a notice to the work permit holder in the following terms — ‘You are hereby informed that, under the existing Laws and regulations, the granting of this work permit in no way confers any entitlement to, or preference in connection with, the granting of any application for the renewal hereof or of any application for the right to be Caymanian. Applications for the renewal of a work permit, applications for the grant of permanent residence and applications for the right to be Caymanian are all considered on their own merits and in the light of circumstances existing at the relevant time’” (emphasis added).

25. The Board complied with that regulation by including standard condition (2) in Ms Bain’s work permit.
26. Whether or not ground 1 is well-founded, standard condition (2) committed the Board to considering any future application for renewal on its merits in light of circumstances as then exist.
27. The impugned condition (and the reasoning underpinning it) was fundamentally inconsistent with standard condition (2) (and the reasoning underpinning it). This fundamental inconsistency in reasoning meant that the Board’s decision to impose the impugned condition was irrational.
28. Further, regulation 5 of the Immigration Regulations fortifies ground 1 above. It spells out what the statute requires, namely that the Board must consider any future application for renewal on its merits in light of circumstances as then exist.

C.3 Ground 3 - inconsistency with sections 37(5) and 38(4) of the Act

29. Section 37 of the Act confers employment rights on permanent residents. Section 37(5) provides that:

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“Upon the grant of permanent residence, the Board or the Director of WORC shall issue to the successful applicant a Residency and Employment Rights Certificate, which Certificate shall entitle the holder —

(a) to accept employment from any employer of that person’s choice; and

(b) to have reside with that person such of that person’s dependants as were listed in that person’s application and were approved by the Board or the Director of WORC, but the Certificate shall restrict the holder to working within the particular occupation or occupations specified by the Board or the Director of WORC and such Certificate may be varied by the Board or the Director of WORC, but there shall be no entitlement to be self-employed” (emphasis added).

30. Section 38 of the Act confers employment rights on spouses or civil partners of Caymanians. Section 38(4) provides that: *“A person to whom a Residency and Employment Rights Certificate is granted under this section shall, as long as the marriage or civil partnership remains stable, be entitled — (a) to remain and work in the Islands in any occupation without the need to possess a work permit...”*.

31. Thus, sections 37 and 38 confer certain rights on non-Caymanians to take up employment in the Cayman Islands.

32. Those rights may only restricted by an order made the Cabinet and approved by Parliament, under section 61(1) of the Act. No such order has been made that bears on the employment of an insolvency administrator. Accordingly, the Act confers on certain non-Caymanians a right of equal access to the post of insolvency administrator as Caymanians.

33. The impugned condition is incompatible with those rights, and therefore unlawful, because it purports to restrict the post to Caymanians.

C.4 Ground 4 – unlawful to compel the Appellant to recruit and train a Caymanian

34. Section 68(1) of the Act provides that *“a person who ...fails to comply with any condition or limitation contained in a work permit commits an offence and is liable to summary*

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conviction in respect of a first offence to a fine of five thousand dollars and to imprisonment for one year...”.

35. The impugned condition imposed the following obligation on the Appellant: *“A Caymanian must be recruited and trained to replace this worker”*.
36. Accordingly, the effect of the impugned condition (if valid) would be to make it a criminal offence for the Appellant to fail to recruit and train a Caymanian to replace Ms Bain.
37. That part of the impugned condition was unlawful because:
- (1) First, it falls outside the meaning of “*condition*” in section 63(1). Properly interpreted, section 63(1) empowers the Board to impose restrictions on the worker that are reasonably necessary to make it acceptable for that person to work. It does not empower the Board to impose collateral requirements on employers that are unconnected to the worker’s employment during the period for which the permit has been granted.
 - (2) Second, this part of the impugned condition was unreasonable. On the face of the condition, the Appellant would commit an offence even if (a) it was not possible for the Appellant to recruit a Caymanian replacement for Ms Bain despite taking all reasonable steps to do so, or (b) the Appellant reasonably decided that it had no business need for an insolvency administrator in the period following the expiry of Ms Bain’s work permit.

C.5 Ground 5 – the Board failed to give adequate reasons for its decision

38. Ground 5 only arises if (contrary to grounds 1, 3 and 4) the Board had a statutory power to impose the impugned condition.
39. As the Court of Appeal of England and Wales has explained in respect of the duty to give reasons for judicial decisions: *“The duty is a function of due process, and therefore of justice. Its rationale has two principal aspects. The first is that fairness surely requires that*

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the parties especially the losing party should be left in no doubt why they have won or lost. This is especially so since without reasons the losing party will not know (as was said in Ex parte Dave) whether the court has misdirected itself, and thus whether he may have an available appeal on the substance of the case. The second is that a requirement to give reasons concentrates the mind; if it is fulfilled, the resulting decision is much more likely to be soundly based on the evidence than if it is not” (Flannery v Halifax Estate Agencies [2000] 1 WLR 377, 381).

40. Ground 5 concerns a decision by an administrative body rather than a court, but the same reasoning applies (as noted by the Court of Appeal of England and Wales in *Dunster Properties Ltd v First Secretary of State* [2007] 2 P & CR 26).

41. As to the standard of reasons required: *“The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the ‘principal important controversial issues’, disclosing how any issue of law or fact was resolved” (South Bucks District Council v Porter (No 2) [2004] 1 WLR 1953, para 36, per Lord Brown).*

42. The Board’s reasons were inadequate because, in relation to the three broad matters to which it referred:

- (1) “The employer’s efforts to recruit and hire Caymanians”. The Board gave no explanation at all as to what it thought of the Appellant’s *“efforts to recruit and hire Caymanians”*.
- (2) “The role’s classification (whether skilled or unskilled)”. The Board gave no explanation at all as to why the Board thought that the position of insolvency administrator was an unskilled role notwithstanding the requirements summarized at paragraph 4 above; and

(3) “Compliance with local employment policies”. The Board gave no explanation at all as to how the Board had assessed the Appellant’s compliance with local employment policies.

43. Separately from the duty to provide adequate reasons, “*process rationality*” requires that “*the process of reasoning should contain no logical error or critical gap*” (*R (KP) v Secretary of State for Foreign, Commonwealth and Development Affairs* [2025] EWHC 370 (Admin), para 56). In the absence of any explanation as to how the Board addressed the three broad matters to which it referred, there was a critical gap in its reasoning.

44. Before the IAT, the Appellant put in issue both (a) the adequacy of the Board’s reasons for its conclusion that the post was unskilled and (b) the rationality of the Board’s assessment. The IAT failed to address those aspects of the challenge. If and to the extent that the IAT concluded that the Board’s reasoning was adequate, it was wrong in law to do so.

C.6 Ground 6 – failure to promulgate policy

45. Ground 6 only arises if (contrary to grounds 1, 3 and 4) the Board had a statutory power to impose the impugned condition. Ground 6 concerns the Board’s failure to promulgate any policy to ensure that the power is exercised in a transparent, principled and consistent way.

46. Where legislation gives to the executive an apparently open-ended discretion to act in a way that affects individual rights (*e.g.* to grant or withhold permission to work), the rule of law requires the executive to state the circumstances in which the discretion will be exercised.

47. In *R (Lumba) v Secretary of State for the Home Department* [2012] 1 AC 245, para 34, Lord Dyson held that: “*The rule of law calls for a transparent statement by the executive of the circumstances in which the broad statutory criteria will be exercised*”. That principle was applied in *R (Justice for Health Ltd) v Secretary of State for Health* [2016] EWHC 2338 (Admin), where Green J (as he was) explained that the principle serves a number of important purposes, including (1) “*to enable those affected by it to regulate their conduct*”,

(2) “to obviate the risk that a public authority can act in an arbitrary way which interferes with fundamental rights of an individual”, and (3) “so that the individual knows the criteria that are being applied and is able to both make meaningful representations to the decision maker before the decision is taken and subsequently to challenge an adverse decision (for instance by showing that the reasons include irrelevant matters)”. The Cayman Islands Court of Appeal held that these principles apply in the Cayman Islands, in *Ebanks, Mendoza and Gomez v Governor of The Cayman Islands* [2023] 1 CILR 445.

48. As to the second purpose underlying the principle, policies serve to guide individual decision-makers and reduce the risk of different officials deciding cases inconsistently. They thereby serve a vital guard against arbitrary decision-making – what Lord Clyde called “*the hazard of individual decision*” (*De Freitas v Ministry of Agriculture* [1999] 1 AC 69, 78H). In *R (Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions* [2003] 2 AC 295, para 143, Lord Clyde stated that “*policies are an essential element in securing the coherent and consistent performance of administrative functions*”. Similarly, in *B v Secretary of State for Work and Pensions* [2005] 1 WLR 3796, para.43, Sedley LJ held that: “*It is axiomatic in modern government that a lawful policy is necessary if an executive discretion of the significance of the one now under consideration is to be exercised, as public law requires it to be exercised, consistently from case to case but adaptably to the facts of individual cases*”.

49. Those principles apply to the exercise of discretion by the Board. In *Dominguez v Immigration Appeals Tribunal* [2022] 1 CILR 717, Walters J noted that the immigration legislation does not provide the level of detail needed by the Board and the IAT to make operational decisions (para 108). He concluded that the absence of policy does not necessarily mean that an individual decision will be unlawful, but that “*their absence does, in my view, make decisions susceptible to criticism in that, without a clear framework establishing and setting out how these bodies approach their statutory role and particularly the exercise of statutory discretion, it is difficult to understand how decisions have been taken, on what basis, whether they are reasonable and proportionate and whether they are consistent*” (para 110).

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50. In this case, the Board's failure to promulgate any policy to guide the exercise of the discretion to impose the impugned condition (if such a power exists) rendered its decision unlawful because:

- (1) In the absence of published criteria for the exercise of the discretion (and in the absence of adequate reasons for the decision), the decision appears to have been taken according to the individual instincts of the officials concerns. That was unreasonable.
- (2) If the discretion was exercised by reference to criteria, the absence of any published policy meant that the Appellant did not know what those criteria were and was therefore denied the opportunity to make meaningful submissions to the Board or the IAT on how the criteria should be applied. That was procedurally unfair.
- (3) In the absence of policy criteria or adequate reasons from the Board, it was not open to the IAT to conclude that the Board had exercised its discretion in a reasonable way.

C.7 Ground 7 - the IAT failed to give adequate reasons for its decision

51. The requirement to give adequate reasons, summarized at section C.5, also applied to the IAT.

52. The IAT breached that duty because it failed to give any reasons or, alternatively, because its reasons were manifestly inadequate to explain why it rejected the Appellant's challenge to the Board's decision.

D. CONCLUSION

53. It is respectfully requested that the Honourable Court make the orders set out in paragraphs (i)-(iv) above.

HSM CHAMBERS

HSM CHAMBERS

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