AN ACT TO AMEND THE IMMIGRATION AND PASSPORT ACT, CHAP. 18:01

(Gazetted 4th December, 2003.)

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

1. This Act may be cited as the –

IMMIGRATION AND PASSPORT (AMENDMENT) ACT 2003.

2. In this Act, “the Act” means the Immigration and Passport Act.

N. J. O. LIVERPOOL
President

28th November, 2003
3. Section 2 of the Act is amended -

(a) in subsection (1), by inserting in the appropriate alphabetical order the following definitions:

“Community” means the Caribbean Community including the CARICOM Single Market and Economy established by the Treaty;

“Minister” means the Minister responsible for Immigration;

“Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy signed at Nassau, The Bahamas on the 5th day of July, 2001.”

(b) in subsection (2), by inserting the following as paragraph (c):

“(c) a person shall be deemed to belong to the State if he is a citizen of a Member State of the Community;”

4. Section 6 of the Act is amended in subsection (3A) by inserting the expression “or the Community” after the words “Organisation of Eastern Caribbean States” wherever those words appear.

5. Section 19 of the Act is amended in subsection (5) by inserting the expression “or the Community” after the words “Organisation of Eastern Caribbean States”.

6. The Act is amended by inserting immediately after section 19 the following new section:

19A. Notwithstanding anything in this or any other law the Cabinet may grant to a person not belonging to the State a permit of permanent residence subject to such conditions as the Cabinet may determine.”
7. The Act is amended by inserting immediately after section 27 the following new sections:

27A. (1) A person who-

(a) enters Dominica otherwise than through an approved port of entry;

(b) enters Dominica through an approved port of entry but leaves Dominica otherwise than through an approved port of entry in Dominica;

(c) enters Dominica as a visitor with a return ticket but sells or otherwise disposes of the return ticket without the permission of an immigration officer;

(d) enters Dominica as a visitor with sufficient funds for the duration of his stay in Dominica but disposes of the funds and makes himself incapable of maintaining himself during the approved duration of his stay; or

(e) enters Dominica as a visitor but engages himself in gainful employment without a valid work permit.

is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

(2) A person who aids, abets, facilitates or in any other way supports or encourages any other person to commit the offence referred to
in subsection (1) is guilty of an offence and on conviction is liable to a fine of twenty-five thousand dollars or to imprisonment for three years or to both such fine and imprisonment.

(3) The provisions of subsection (1) (a) and (b) shall not apply to a fisherman who is a citizen of Dominica who in the conduct of his trade as a fisherman enters or leave Dominica with his fishing boat.

27B. (1) A person is guilty of an offence of human trafficking if that person assists any other person to enter or leave Dominica in an unlawful manner.

(2) A person who is convicted of an offence under subsection (1) is liable to a fine of one hundred thousand dollars or to imprisonment for seven years or to both such fine and imprisonment.

27C. (1) Any person, not being a citizen of Dominica, shall not -

(a) engage in any occupation in Dominica for profit or reward;

(b) be employed in Dominica for a wage, salary or other remuneration; or

(c) engage or take part in any musical, dramatic or artistic performance of any kind, whether for gain or otherwise, or use any instrument or device whatsoever in either or any such performances aforesaid save in a Church or in such institution or for such purposes
specifically approved by the Minister of Tourism or the Minister responsible for Cultural Affairs or Education

unless there is in force in relation to such person a valid work permit, and such person so engages, performs or is so employed in accordance with the terms and conditions which are specified in such permit.

(2) Notwithstanding subsection (1), a national of another Member State of the Community in the exercise of the right of establishment as provided for under the Treaty is entitled to engage in such occupation in Dominica for profit or gain; and without prejudice to the generality of the foregoing such national may -

(a) engage or take part in any musical, dramatic or artistic performance of any kind whether for gain or otherwise; or

(b) use any instrument or device whatsoever in any musical, dramatic or artistic performance of any kind whether for gain or otherwise.

(3) A person who acts in contravention of subsection (1) is guilty of an offence and on conviction is liable to a fine of three thousand dollars or imprisonment for three years and is also liable to be deported.

"Exemption. 27D. (1) The provisions of section 27 C shall not apply to -

(a) a Judge of the High Court or the Court of Appeal of the Eastern Caribbean Supreme Court;
(b) any person employed in the service of the Government of Dominica in a civil capacity in respect of the Government of Dominica whether or not that person receives remuneration from the Government of Dominica.

(c) Diplomatic representatives duly accredited to Dominica;

(d) representatives of United Nations Organisations or of any specialized agency thereof or of any similar international organisation of which Dominica itself is a member;

(e) representatives or employees of any regional organization, agency or body of which Dominica is itself a member;

(f) skilled nationals of the Caribbean who are exempted from work permit requirements under the Caribbean Community skilled Nationals Act 1995; and

(g) such other person as the Minister may by Order exempt.

27E. (1) An application for a work permit shall be addressed to the Minister who may grant the work permit either with or without conditions or may refuse to grant it.

(2) An application for work permit shall be in such form as may be prescribed.
(3) Every work permit shall be kept by the person to whom it was issued, who shall at all times produce the work permit to any member of the Police Force when requested to do so: Provided that, if, within forty-eight hours after the production of the work permit was required, the holder thereof produces it in person at such police station as may be specified to him at the time its production was required, that person shall not be guilty of an offence under subsection 5(a) of this section.

(4) Every person having in his possession a work permit appearing to have been issued under this Act shall answer all questions put to him by any member of the Police Force for the purpose of establishing his identity or validity of his work permit.

(5) Every person who -

(a) fails without reasonable excuse or refuses to produce a work permit as required by subsection (3); or

(b) refuses to answer any questions put to him contrary to subsection (4),

is guilty of an offence against this Act and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for six months.

27F. (1) An application for a work permit in such form as may be prescribed may be made by an employer on behalf of any person to be employed by such employer where he is required to satisfy the Minister that a suitable resident of Dominica could not be recruited for employment.
(2) Where the Minister is satisfied that the applicant will not be able to find a suitable person referred to in subsection (1), he may grant a work permit in such form as may be prescribed for such period and under such other condition as he may think fit.

"Security."

27G. The Minister may require an applicant for work permit or an employer who makes an application for a work permit on behalf of his prospective employee to furnish security in such form and in such sum as he may determine to meet the cost of repatriation if the person to whom the permit relates or his dependants are likely to become a charge on public funds.

"Revocation of work permits."

27H. (1) A work permit granted under this Act may at any time be revoked or varied by the Minister or by the Chief Immigration Officer acting under the direction of the Minister by notice issued in the prescribed form.

(2) Where a permit is revoked, the immigrant may be arrested after fifteen days from the date of such revocation and brought before a Magistrate’s Court which shall deal with the immigrant according to law.

(3) Before revoking the work permit the Minister shall give the holder of the work permit an opportunity of being heard.”

8. Section 36 of the Act is amended by repealing subsection (1) and substituting the following new subsection -
“(1) Any person found guilty of an offence under this Act for which no specific penalty is provided in any section is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for one year or to both such fine and imprisonment.”

Passed in the House of Assembly this 19th day of November, 2003.

ALEX F. PHILLIP (MRS.)
Clerk of the House of Assembly