



## **W2 - Closed and Restricted Categories**

**POLICY: CLOSED AND RESTRICTED CATEGORIES**

**REF: W2**

- **CONDITIONS OF EMPLOYMENT RELATING TO JOBS LISTED IN THE RESTRICTED CATEGORY**
  - *Bank Teller and Cashier*
  - *Commercial Cleaner*
  - *Photographer*
  - *Technical Salesperson*
  - *Tourist Retail Salesperson*
  - *Travel Agent/ Consultant*

## Closed and Restricted Categories

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#### **PURPOSE:**

To define the meaning and significance of open, closed or restricted job categories; to define the conditions that govern each category; and to outline the process under which the categories are developed and reviewed.

#### **STATEMENT:**

As the economy of Bermuda continues to be dynamic, it is the Minister's policy to review frequently the job titles defined as one of the three categories described below and revise them as necessary. The most current information can be obtained directly from the Department of Immigration, the 2000 Economic Survey and the Report on the 2000 Census of Population and Housing. Job categories are divided into three broad groups:

- Open Category where employment is permitted to non-Bermudians, provided no Bermudian, spouse of a Bermudian, divorced parent of a Bermudian, WRC holder, permanent resident, or non-Bermudian with a qualifying Bermudian connection is available.
- Closed Category where non-Bermudians without strong Bermudian connections are not allowed to work. Jobs in this category are closed to non-Bermudians except where the non-Bermudian is:
  - the spouse (including the widow or widower) of a Bermudian.
- Restricted Category where non-Bermudians may be permitted to work, subject to such limitations as the Minister may place on the specific job category. Some of these types are dealt with specifically in this policy. Information on the other types, listed below, may be obtained from the Department of Immigration. If an individual moves from an Open category into a Restricted category, he or she will cease to enjoy any benefits to which he or she might have been entitled while working in the Open category.

### Closed and Restricted Categories

Jobs currently in the Closed and Restricted Categories are, as follows:

Closed Category	Restricted Category
– Airline Ground Agent	– Bank Teller
– Floor Supervisor	– Bartender <b>**AMENDED**</b>
– Labourer, General	– Carpet Installer
– Office Receptionist	– Commercial Cleaner
– Painter	– Construction Tradesmen
– Salesperson	– Entertainer/ Musician
– Taxi-Driver	– Fisherman
– Wall Paper Technician	– Photographer
–	– Technical salesperson
–	– Tourist Retail salesperson
	– Travel Agent/ Consultant

#### Conditions of Employment Relating to Jobs Listed in the Restricted Category

The following terms and conditions will generally be applied to all applications for work permits in the Restricted Category, except those from spouses of Bermudians:

- employment must be clearly defined in terms of a specific position. No career prospects, promotions or long-term employment may be offered as inducement to prospective employees;
- work permits granted to non-Bermudians will normally be for a maximum period of 12 months;
- positions will be regularly advertised to ensure that Bermudians are given every opportunity to apply;
- where there is a need to lay-off or place workers on “short-time”, non-Bermudian employees, without exception, are to be laid-off first;
- employers will continue to provide training opportunities in order to attract Bermudian applicants. In some cases, the business may be asked to submit to regular monitoring of the training, by any officer of the Ministry nominated by the Minister;
- renewals will be subject to evidence being submitted in support of genuine efforts made to find and, where practical, to train a Bermudian to fill the job;

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- applications for renewals should contain a statement that Employment Services in this Ministry have been consulted regarding the availability of Bermudians. The statement must also include - the results of such consultation;
- employers are expected to inform their non-Bermudian employees of the conditions outlined above, and obtain written confirmation that the employees understand and accept these conditions without qualification.

For example, terms and conditions relevant to specific job types include:

#### *Bank Teller and Cashier*

- the maximum number of non-Bermudian tellers/ cashiers will not exceed 10% of the total number of teller/ cashier positions in each Bank.

#### *Commercial Cleaner*

- employment of non-Bermudians will be limited to the location(s) and periods listed on each worker's work permit.

#### *Photographer*

- employment of non-Bermudians as photographers is limited to those who are:
  - journalists;
  - working for overseas print or motion picture media publications;
  - working for overseas clients such as advertisers wishing to use Bermuda as a backdrop;
  - specialists in architectural or food photography; or
  - specialists in aerial or medical photography.

The photographer must obtain a work permit in the normal way. The photographer is expected to canvass the Bermudian photographers for work as consultants or assistants in the shoot for which they would advise on locations and otherwise assist. Partnerships with local photographers are encouraged.

- non-Bermudians are not permitted to be employed for domestic photography work. This includes locally generated photography for all local companies including international companies, the hotels, tourism and cruise ships.

#### *Technical Salesperson*

- a technical salesperson is defined in the Bermuda Standard Classification of Occupations as:
  - *A person who sells products such as chemical, mechanical and electronic equipment using specialised knowledge of the technology of the composition, utilisation and maintenance of the goods or equipment sold and who calls on potential clients to explain merits of the products and their application to the user's special requirements;*

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➤ *Arranges for the preparation of plans and the operational specifications showing advantages of the proposed changes of equipment, method or materials. May negotiate contracts and assist in the arrangement of credit.*

- the work permit is issued subject to a trainee being actively sought;
- a formal training programme must be offered to the trainee and a copy of that programme forwarded to the Department of Immigration, the National Training Board and the Department of Training and Employment Services in this Ministry.

#### *Tourist Retail Salesperson*

Generally sales categories are closed to non-Bermudians unless they have close ties with Bermuda. However, tourist-related retail sales are seasonal and employers often have difficulty finding sufficient Bermudians to do the jobs available.

Subject to the proper application of the policies detailed above, e.g. that there is no suitably qualified Bermudian applicant for the position, the following terms will apply:

- the positions pertain only to tourist-oriented retail establishments as determined by the Minister in his or her discretion;
- such persons may be employed only during the period 1 May to 31 October in any year. In special cases, the Minister may grant permission for a longer season;
- the maximum number of jobs that may be filled by individuals permitted to work under this policy will be subject to a quota in each establishment. The quota is based on all staff employed in occupations defined in the Employment Survey as BSCO 4.51.30 and BSCO 4.51.35. The total numbers of staff in all the retail outlets of an employer are to be counted together when determining the quota for that employer;
- the quota, based on allowing only 20% of the relevant employees to be non-Bermudian, is:
  - for from one to five employees in the category, one restricted employee will be allowed;
  - for between six and ten employees in the category, two restricted employees will be allowed;
  - for between 11 and 15 employees in the category, three restricted employees will be allowed;
  - for 16 to 20 employees in the category, four restricted employees will be allowed;
  - for 21 to 25 employees in the category, five restricted employees ...and so on.

An employer may be required, on request, to furnish written evidence that the business is functioning within the quota.

#### *Travel Agent/ Consultant*

- the application is in respect of a person qualified and already resident in Bermuda;

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- at least one Bermudian trainee must be employed for every non-Bermudian travel agent at all times;
- the work permit will be issued only on the condition that a trainee will be taken on within the first three months of the issue of the permit;
- the Department of Immigration must be informed when any trainee ceases to be employed by the travel agency.

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