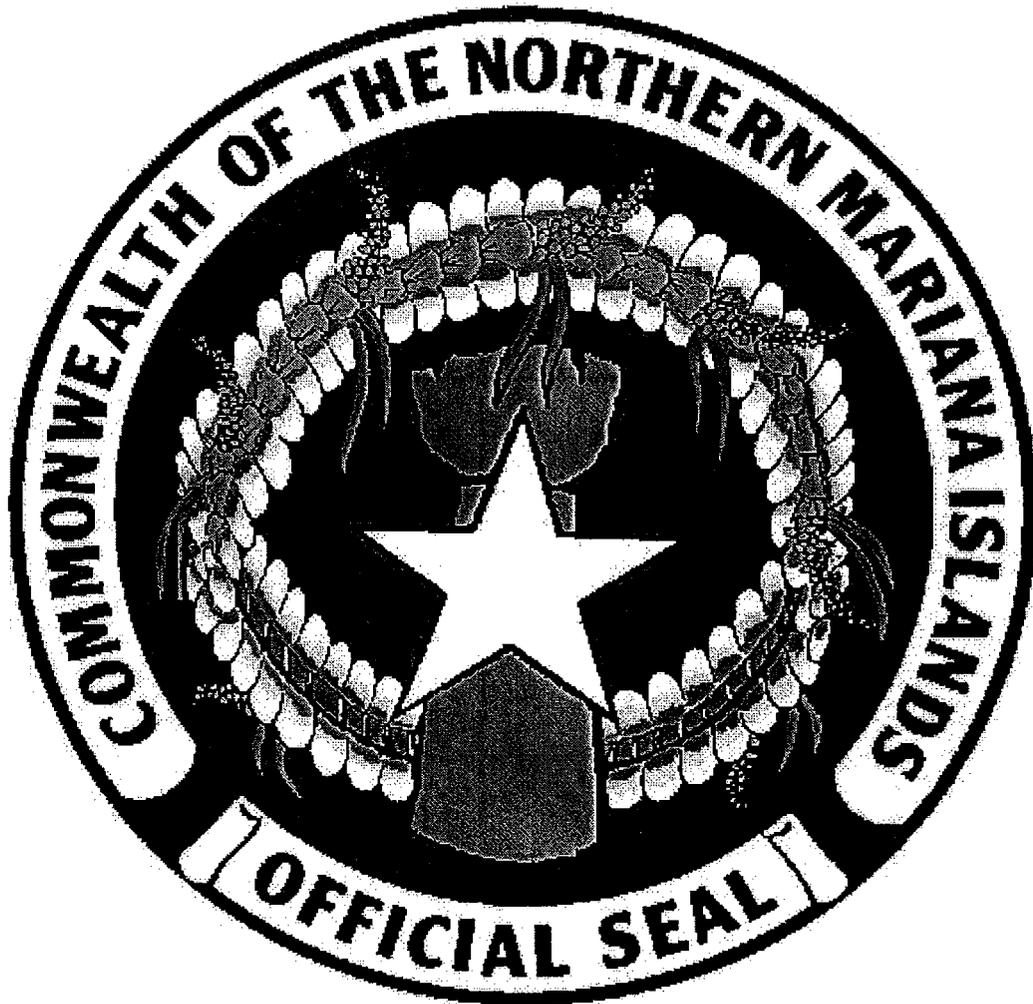


COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS



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COMMONWEALTH REGISTER  
VOLUME 29  
NUMBER 01

JANUARY 16, 2007

# ***COMMONWEALTH REGISTER***

***VOLUME 29***

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***January 16,2007***

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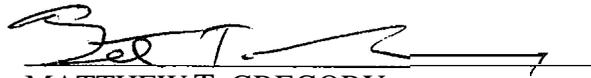
### **NOTICE AND CERTIFICATION ON ADOPTION OF REGULATIONS:**

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**NOTICE AND CERTIFICATION OF ADOPTION OF  
IMMIGRATION REGULATIONS SECTIONS 713,714,715, and 716**

I, Matthew Gregory, the Attorney General of the Commonwealth of the Northern Mariana Islands, which is promulgating Immigration Regulations Sections 713, 714,715, and 716, published as proposed regulations in the Commonwealth Register Vol. 27, No. 11 on December 30, 2005, at pages 25323 to 25332, by signature below hereby: (i) certify that, as published therein, and with such modifications as set forth herein, such regulations are a true, correct and complete copy of Immigration Regulations Sections 713, 714, 715, and 176; and (ii) direct that this Notice and Certification of Adoption be published in the March 2006 Commonwealth Register, said regulations to take effect ten days thereafter pursuant to 1 CMC §§ 9102 and 9105(b). For the sake of clarity, the regulations are republished herein, as amended.

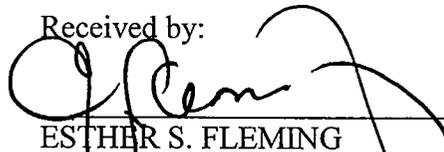
I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 4<sup>th</sup> day of January 2007.

  
MATTHEW T. GREGORY  
CNMI Attorney General

Filed By:

  
BERNADITA B. DELA CRUZ  
Commonwealth Register  
Date: 1-5-07

Received by:

  
ESTHER S. FLEMING  
Special Assistant for Administration  
Date: 1/5/07

Pursuant to 1 CMC § 2153, as amended, the above certification has been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated: 1/4/07

  
MATTHEW T. GREGORY  
Attorney General

## SUMMARY OF COMMENTS

### • **Comments Received January 17,2006.**

A concerned group wrote an unsigned letter to object to the property ownership requirements. They suggested as alternatives, requiring a CNMI driver's license, proof of voter registration, or a copy of a lease or rental contract in the CNMI.

*As proposed, the regulations list 'property ownership' as only one of several possible ways to satisfy the eligibility requirement, and as proposed, this requirement could already be satisfied by a lease or rental contract in the CNMI: As for a CNMI driver's license, the Attorney General believes that licenses are too easily obtained and therefore would not make effective evidence of residency. Voter registration, on the other hand, would be more effective in this regard, as would a more general "residency requirement". Thus, Section 713(c)(3)(b) is amended accordingly.*

### **Comments Received January 26 and February 16,2006.**

An attorney submitted two sets of written comments. The first issued a general objection to any and all proposed changes to the spousal sponsorship requirements. Among other things, the comments suggested that the best policy is the "clear, simple, fair policy" now in place. The commentator singled out the standard of "intent to establish a life together", as problematic. In a follow-up letter, the same commentator made four specific suggestions:

1. A "grandfather clause" for persons already married with existing IR Permits.
2. Eliminating: (i) the "Affidavit of Intent to Reside Together"; (ii) joint bank accounts; (iii) jointly-owned property; and (iv) joint tax returns, as objective factors.
3. Adding: (i) a requirement that U.S.-citizen spouse/sponsor to reside in the Commonwealth for at least two years prior to the marriage; (ii) a finding that a couple who has resided together for at least one year is sufficiently (and definitively) eligible; or (iii) a finding that a couple that has at least one child together is sufficiently (and definitively) eligible, to the list of objective factors.
4. Limiting a determination of "intent" to only the first application. In other words, a renewal of an I.R. permit would not require any investigation beyond determining that the marriage is still legally in effect.

*The Attorney General disagrees that the current policy is sufficient, insofar as it allows any US. citizen, whether or not a resident of the C.N.M.I, to marry an alien and that alien may obtain the right to live and work in the Commonwealth, essentially without restriction. However, the Attorney General believes that meeting only two of the four requirements will achieve the goals of these regulations. The Attorney General also disagrees that the regulations should include a grandfather clause, as there already*

*exists an unacceptably large number of known or suspected fraudulent marriages in the CNMI. The Attorney General also disagrees that any of the above factors should be eliminated, as they are merely alternative factors in the ultimate determination, which is based on cumulative evidence. Elimination would reduce flexibility and could impose an undue burden on legitimate applicants.*

*The Attorney General agrees, however, that a determination of intent could be limited to the initial application, provided that there is a determination upon renewal that the marriage is not for the "sole purpose" of obtaining a labor or immigration benefit. Rearing children, for example, would constitute a purpose other than to obtain a labor or immigration benefit. With regard to the commentator's third point, the Attorney General agrees that these would all be valid forms of supportive evidence, as might be included in Section 713(C)(3)(d)'s "catch-all" provision, but disagrees that any of these determinations should be definitive. The regulations are adopted with amendments in accord with these positions.*

- **Comments Received at Public Hearing.**

On February 22, 2006, the Office of the Attorney General held a public hearing on the proposed regulations. Roughly 30 people attended; about half offered comments. In general, the public expressed strong support for the proposed regulations and indicated that the burdens imposed, provided they are minor, would be worth the benefit. Specific comments included:

-Nonresident workers and aliens in legitimate marriages suffer from the flood of competition in jobs traditionally held by aliens—the taxi industry being the prime example. It was also suggested that those in illegitimate marriages tend to abuse their rights to public benefits and may operate businesses without permits.

*The Attorney General agrees and cites this as just one of the many reasons for proposing these regulations.*

-Representative Kaipat suggested that the requirements be implemented by law, and suggested bringing together a task force of Labor, Immigration, and Legislature to examine the problem.

*The Attorney General agrees with this position in principle but sees no reason to wait for legislation. Point of fact, adopting these measures by regulation would allow lawmakers to gauge the effectiveness of each provision and tailor any future bills accordingly.*

-One commentator suggested that the government should offer a timeline for how long the review should take.

*The Attorney General agrees but feels that the Division of Immigration first needs to obtain experience working with these regulations before arbitrarily setting timelines.*

- The current I.R. Permit is especially open to abuse by non-CNMI Micronesian sponsors, who have no habitual residency in the CNMI.

*The Attorney General agrees, but feels this concern is adequately addressed through the existing provisions and the amendments described herein.*

- Several commentators objected to the use of the term "sponsor" instead of "spouse".

*The Attorney General agrees, but notes that use of the term "spouse", without more, could be confusing as it could refer to either the alien or the US. citizen. For that reason, the term "sponsoring-spouse" will be used throughout the regulation.*

- A commentator suggested that the several terms needed to be more objectively defined, such as "substantial value" (in Section 713(C)(3)(d)(ii)) and "social activity" (in Section 713(C)(3)(d)(iii)).

*The Attorney General believes that these terms can be defined by common sense; defining them too narrowly would impair flexibility and would create an undue burden on applicants.*

- Justice Manglona suggested that having a joint bank account is not an onerous requirement, but it should include a minimum balance.

*The Attorney General disagrees that one minimum balance should be required as this could be viewed as discriminatory against poorer couples. The Division of Immigration should, however, make judgments on a case-by-case basis as to whether the amounts are sufficient to warrant a positive or negative finding.*

- A commentator suggested that the couple should be required to appear together for renewal interviews, but there should be some flexibility if a person cannot appear in person. At the very least, sponsoring-spouse should be required to appear.

*The Attorney General agrees and believes that these concerns are already reflected in the regulations as proposed.*

- A commentator suggested that taking their spouse's last name would be evidence of a legitimate marriage.

*The Attorney General agrees but believes it is not necessary to include this as a listed example, as it could be offered under the "catch-all" provision.*

## SUMMARY OF CHANGES

\* Technical or stylistic changes that do not alter substance or meaning of the regulations are not addressed.

- Proposed Regulations **713(C)(3)**.
  3. If the person is serving as ~~sponsor~~ sponsoring-spouse for purposes of obtaining or renewing an Immediate Relative of a Non-Alien Permit under Immigration Regulation §706(D), the couple must ~~demonstrate that they intend to establish a life together by providing~~ provide evidence that at least ~~three~~ two of the following four conditions have been satisfied:
- Proposed Regulation **703(C)(3)(b)**.
  - b. ~~The U.S. Citizen sponsor~~ sponsoring-spouse demonstrates residency in the CNMI by providing proof that he or she: (i) owns, either wholly or in part, or continuously maintains a leasehold interest in, a residential property, apartment, or condominium, located in the CNMI, and if an initial application, that said interest was established at least six months prior to the date on which the application for the Immediate Relative of a Non-Alien Permit was filed; or (ii) is registered to vote in the CNMI for at least one year prior to submission of the application.
- Proposed Regulation **703(C)(3)(c)**.
  - c. Prior to issuance of the initial permit, and again thereafter at any time prior to the annual renewal of said permit, the couple appears together, in person and under oath, for an interview with the Director of Immigration or his designee. The purpose of said interview is solely for the purpose of determining whether the couple intends to establish a life together if an initial interview, and if a subsequent interview, the purpose shall be to determine that the marriage is not being maintained for the sole purpose of obtaining a labor and immigration benefit. The interviewer shall take all necessary steps to protect the couple's right to privacy. The interviews shall be mandatory for the first three years of the marriage, but thereafter shall take place at the discretion of the Director, upon proper notice to the parties.
- Proposed Regulation **703(C)(3)(d)**.
  - d. The sponsoring-spouse provides such other evidence that, when viewed cumulatively, would lead a reasonable person to believe that the couple intends to establish a life together if an initial application, or if a renewal, to determine that the sole purpose of the maintaining the marriage is not to obtain a labor or immigration benefit. Such evidence may include but is not limited to evidence that the couple: (i) maintains a joint bank account; (ii) jointly owns or leases real or movable property of substantial value; (iii) regularly participates in social activities as man and wife; (iv) files joint tax returns; or (iv) has children for which both parents are providing care and supervision.

## IMMIGRATION REGULATIONS TITLE VII

### Immigration Regulation § 713. Sponsors

#### A. Applicability.

Except as otherwise provided for by law or regulation, any alien applying for an entry permit under Immigration Regulation §§ 703, 704, or 706 shall have a local sponsor who shall have signed an Affidavit of Sponsorship and Support on behalf of the alien.

#### B. General Eligibility Requirements.

In order to serve as sponsor, a person must not have previously sponsored an alien who then violated United States or Commonwealth immigration laws or regulations. A violation may include sponsoring an alien who at any time is present in the Commonwealth without legal status; such determination need not be rendered by a court of law, but must, in any case, be supported by substantial evidence.

#### C. Specific Eligibility Requirements.

1. If the person is serving as sponsor for purposes of obtaining a Visitor Entry Permit, the sponsor must satisfy the requirements of Immigration Regulation § 703.
2. If the person is serving as sponsor for purposes of obtaining a Short-Term Business Entry Permit under Immigration Regulation § 704, the sponsor must establish that he or she is, or is acting on behalf of, a duly-established and lawfully operating business in the CNMI.
3. If the person is serving as sponsoring-spouse for purposes of obtaining or renewing an Immediate Relative of a Non-Alien Permit under Immigration Regulation § 706(D), the couple must provide evidence that at least three of the following four conditions have been satisfied:
  - a. An affidavit sworn under penalty of perjury, signed by both sponsoring-spouse and the alien, attesting that the couple will share the same primary place of residence in the CNMI.
  - b. The sponsoring-spouse demonstrates residency in the CNMI by providing proof that he or she: (i) owns, either wholly or in part, or continuously maintains a leasehold interest in, a residential property, apartment, or condominium, located in the CNMI, and if an initial application, that said interest was established at least six months prior to the date on which the application for the Immediate Relative of a Non-Alien Permit was filed; or (ii)

is registered to vote in the CNMI for at least one year immediately prior to submission of the application.

- c. Prior to issuance of the initial permit, and again thereafter at any time prior to the annual renewal of said permit, the couple appears together, in person and under oath, for an interview with the Director of Immigration or his designee. The purpose of said interview is solely for the purpose of determining whether the couple intends to establish a life together if an initial interview, and if a subsequent interview, the purpose shall be to determine that the marriage is not being maintained for the sole purpose of obtaining a labor and immigration benefit. The interviewer shall take all necessary steps to protect the couple's right to privacy. The interviews shall be mandatory for the first three years of the marriage, but thereafter shall take place at the discretion of the Director, upon proper notice to the parties.
  - d. The sponsoring-spouse provides such other evidence that, when viewed cumulatively, would lead a reasonable person to believe that the couple intends to establish a life together if an initial application, or if a renewal, that the sole purpose of the maintaining the marriage is not to obtain a labor or immigration benefit. Such evidence may include but is not limited to evidence that the couple: (i) maintains a joint bank account; (ii) jointly owns or leases real or movable property of substantial value; (iii) regularly participates in social activities as man and wife; (iv) files joint tax returns; or (v) has children for which both parents are providing care and supervision.
4. If the person is serving as sponsor for purposes of obtaining an Immediate Relative of an Alien Permit under Immigration Regulation §706(E), in addition to satisfying those requirements set forth by and 3 CMC §§4321(d), 4437(i), the sponsoring-spouse must reside legally and continuously in the Commonwealth.
  5. If the person is serving as sponsor for the purpose of obtaining any other entry permit, the person must satisfy all enumerated conditions under the section governing that permit.

#### Immigration Regulation § 714. Revocation of Permits

##### A. Applicability.

The Division of Immigration may deny any application for a new or renewed permit, or may revoke any permit issued under Title VII of these regulations upon a finding by the Director or his designee that:

1. The alien to whom the permit was issued no longer satisfies the criteria for the permit category;
2. The permit was obtained by fraud, deceit, material misrepresentation, or in violation of CNMI law; or
3. The sponsor of the alien has become ineligible under or has failed to satisfy the requirements of Immigration Regulation §713.

B. Procedure.

The Division of Immigration shall serve the alien with a written notice of revocation. The notice shall include a summary of the Director's finding. The alien shall have all rights of appeal provided by 1 CMC § 9101 *et seq.*

Immigration Regulation § 715. Exit Waivers

A. Applicability.

Under exceptional circumstances, such as a dire emergency or extreme hardship, and when in the best interest of the Commonwealth, the Attorney General or her designee may waive any exit requirements established pursuant to these regulations or where otherwise authorized by law. An expense that would preclude an alien from returning to the Commonwealth does not, standing alone, constitute an extreme hardship or dire emergency.

B. Limitations.

This regulation in no way authorizes the Attorney General or a designee to waive any specific requirements mandated by Commonwealth immigration or labor laws, such as those requirements under 3 CMC § 4434(b)(1).

C. Procedure.

A request for an Exit Waiver shall be submitted in writing to the Director of Immigration who shall forward the request to the Attorney General with a recommendation. The Attorney General or her designee shall provide notice to the Director that describes the dire emergency or extreme hardship and authorizes the issuance of an Exit Waiver. Upon receipt of the notice, the Director shall issue the Exit Waiver and take necessary steps to inform relevant government agencies.

Immigration Regulation § 716. Deferred Action Letters

A. Applicability.

The Attorney General or her designee may stay an alien's repatriation or deportation through the issuance of a Deferred Action Letter. The alien shall keep the Deferred Action Letter, or a certified copy thereof, on his or her person at all times and it shall serve as evidence of their lawful right to be in the CNMI. The letter enables the holder to lawfully remain in the Commonwealth while the letter is in effect, but shall confer no other status or benefits. Each letter shall include at a minimum:

1. The alien's name, date of birth, and passport and/or LIIDS number (if available).
2. The expiration date, or terms of expiration, of the Deferred Action Letter.
3. The reason for granting the Deferred Action Letter.
4. Any additional terms or conditions.
5. Explanation that the Deferred Action Letter does not entitle the alien to any other benefits, to work or to seek work, and that any violation of the terms and conditions will result in revocation and may subject the holder to immediate deportation.

B. Procedure.

A request for a Deferred Action Letter shall be submitted in writing to the Director of Immigration who shall forward the request to the Attorney General with a recommendation. The request must demonstrate that the alien has the necessary means of support for the duration of the deferment. The Attorney General or her designee shall issue the Deferred Action Letter and shall provide notice that such letter was issued, including the expiration date, to the Director.

NOTICE AND CERTIFICATION OF ADOPTION OF  
REGULATIONS REGARDING THE RECRUITMENT OF ALIEN WORKERS

I, Gil San Nicolas, Secretary of Labor, certify that the proposed regulations regarding the recruitment of Alien Workers that was published in the Commonwealth register, volume 27, Number 10, at pages 025219-025230 are a true, complete and correct copy of the Regulations previously proposed which, after the expiration of the time for public comment, have been finally adopted without modification. I further request and direct that this Notice and Certification be published in the CNMI Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on this 19<sup>th</sup> day of December 2006 in Saipan, Commonwealth of the Northern Mariana Islands.

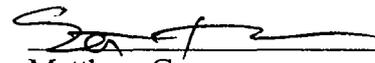
  
\_\_\_\_\_  
Gil San Nicolas  
Secretary of Labor

Filed By:

  
\_\_\_\_\_  
Bernadita B. Dela Cruz  
Commonwealth Registrar  
Date: 1-11-07

Pursuant to 1 CMC § 2153, as amended, the above certification has been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated: 1/6/07

  
\_\_\_\_\_  
Matthew Gregory  
Attorney General