

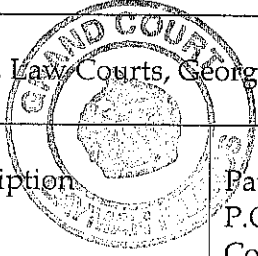
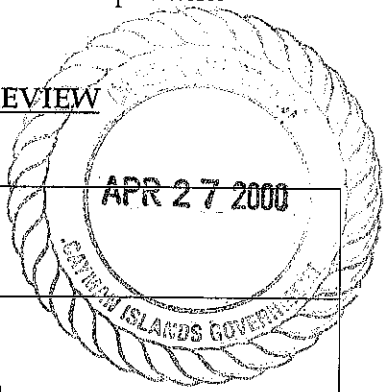
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 322 OF 2000

BETWEEN: **PAUL A. BODDEN**  
(t/a Paul A. Bodden Heavy Equipment Service) Applicant

AND: **THE GOVERNOR OF THE CAYMAN ISLANDS  
IN COUNCIL** Respondent

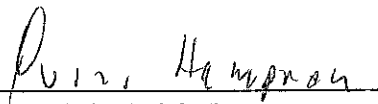
APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman			
Name, address and description of applicant	Paul Bodden P.O. Box 1354 GT, Grand Cayman Contractor		
Judgment, order, decision or other proceeding in respect of which relief is sought	Letter dated 28th January 2000 refusing permission to import 1978 Caterpillar Excavator; Refusal on re-consideration dated 8th February 2000, communicated by letter dated 16th February 2000.		
Relief Sought			
1. Declaration that permission to import 1978 Caterpillar Excavator not required; 2. Order quashing refusal of permission and directing Defendant to grant permission.			
Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant	Quin & Hampson, Attorneys-at-Law, Third Floor, Harbour Centre, P.O. Box 1348 GT, Grand Cayman Ref: Kenneth Farrow		
Signed <i>Quin Hampson</i>	Dated 27th April 2000		

## GROUNDNS ON WHICH RELIEF IS SOUGHT

1. On 12th November 1999, the Applicant, who carries on business as a contractor under the name "Paul A. Bodden Heavy Equipment Service", applied for permission to import, *inter alia*, a 1978 Caterpillar Excavator ("the Excavator"). On 28th January 2000, he was informed that permission had been refused by the Executive Council. On 1st February 2000, he asked that his application be reconsidered. On 16th February 2000, he was informed that his application had been reconsidered by the Executive Council on 8th February 2000 and refused.
2. There are three grounds on which relief is sought:
  - (1) Permission to import the Excavator was not required because the Customs (Temporary Provisions) Regulations, 1997 ("the 1997 Regulations"), had expired prior to the making of the application and there was, and is, no other restriction (apart from the payment of duty) on the import of heavy equipment;
  - (2) Alternatively, the Excavator is not "heavy equipment" within the meaning of the 1997 Regulations;
  - (3) Alternatively, the refusal of permission was unreasonable because:
    - (i) it was based solely on the fact that the Excavator was 21 years old; and/or
    - (ii) it involved an unlawful fetter on the discretion of the Executive Council, namely, the application of a pre-determined rule that permission to import heavy equipment more than 10 years old would be refused.
3. Subsequent to the letter of 16th February 2000, the Applicant sought confirmation of the information relevant to the ground on which permission had been refused. After that, he was uncertain as to what to do until he consulted attorneys in mid-April 2000. It will be contended that delay is irrelevant to the grounds specified in paragraph 2 (1) (2).

Dated 27th April, 2000

  
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QUIN & HAMPSON  
Attorneys-at-law for the Applicant

Filed by Quin & Hampson, Attorneys-at-Law for the Applicant herein whose address for service is Third Floor, Harbour Centre, P.O. Box 1348, George Town, Grand Cayman