



## BERMUDA

### BERMUDA IMMIGRATION AND PROTECTION AMENDMENT ACT 2020

2020 : 16

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WHEREAS it is expedient to amend the Bermuda Immigration and Protection Act 1956;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

#### **Citation**

1 This Act, which amends the Bermuda Immigration and Protection Act 1956 (the "principal Act"), may be cited as the Bermuda Immigration and Protection Amendment Act 2020.

**Amends section 2 and makes consequential amendments**

2 (1) Section 2(1) of the principal Act is amended by inserting the following definitions in their correct alphabetical place—

“ permanent resident ” means a person who has been granted a permanent resident’s certificate (other than one that has been revoked under section 31D or has otherwise ceased to have effect);

“ permanent resident’s certificate ” means a permanent resident’s certificate granted under section 31A (including such certificate granted under section 31A as it was before being repealed and replaced by the Incentives for Job Makers Act 2011), or section 31B;”.

(2) In consequence of the insertion by subsection (1) of the definitions of “ permanent resident ” and “ permanent resident’s certificate ”, the principal Act is amended—

- (a) by repealing the definition of “ permanent resident ” in both sections 23 and 72(1);
- (b) in section 31C(1), by deleting “ under section 31A or 31B ”; and
- (c) in section 31D(1), by deleting “ referred to in section 31A or 31B ” and substituting “ who has been granted a permanent resident’s certificate ”.

**Amends section 16**

3 Section 16 of the principal Act is amended—

- (a) in subsection (2B)—
  - (i) by deleting “ or (3) ” and substituting “, (3) or (3A) ”; and
  - (ii) by deleting “ or (2) ” and substituting “, (1A) or (2) ”; and
- (b) by inserting after subsection (2B)—

“(2C) A person referred to in subsection (2B) shall from and after the day that he becomes a Commonwealth citizen possess Bermudian status.”.

**Amends section 18**

4 Section 18 of the principal Act is amended—

- (a) by inserting after subsection (3)—

“(3A) Where a person is, on or after the commencement of sections 4 and 5 of the Bermuda Immigration and Protection Amendment Act 2020, born outside

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Bermuda and neither of his parents is domiciled in Bermuda at the time of his birth, he shall possess Bermudian status if, at the time of his birth—

- (a) he is a Commonwealth citizen; and
  - (b) one of his parents possesses Bermudian status; and
  - (c) at least one of his parents or grandparents possesses Bermudian status that was acquired other than under this subsection or section 18AA(1A).”;
- (b) in subsection (6), by inserting “or (3A)” after “subsection (3)”;
- (c) in subsection (7)—
- (i) by deleting “or (3)” and substituting “, (3) or (3A)”;
  - (ii) by deleting “father” each time it occurs and substituting “parent or grandparent”; and
  - (iii) by deleting “father’s death” and substituting “death of the parent or grandparent, as the case may be”; and
- (d) in subsection (9)(a), by deleting “his mother’s” and substituting “a woman’s”.

**Amends section 18AA**

5 Section 18AA of the principal Act is amended—

- (a) by inserting after subsection (1)—

“(1A) Where, on or after the commencement of sections 4 and 5 of the Bermuda Immigration and Protection Amendment Act 2020, a person not possessing Bermudian status who, on the date of his adoption, is both a Commonwealth citizen and under the age of 18 years is adopted outside Bermuda, under the law of an approved jurisdiction, he shall, provided the adoption was initiated before his sixteenth birthday, possess Bermudian status from (and inclusive of) the date of his adoption if—

- (a) one of his adoptive parents possesses Bermudian status; and
- (b) neither of his adoptive parents is domiciled in Bermuda on the date of his adoption but, on that date, at least one of his adoptive parents or adoptive grandparents possesses Bermudian status that was acquired other than under this subsection or section 18(3A); and
- (c) his overseas adoption is recognized by the law of Bermuda.”; and

- (b) in subsection (5)—
  - (i) by deleting “Subsections (8)” and substituting “Subsections (7), (8)”;  
and
  - (ii) by deleting “the domicile” and substituting “the status or domicile”.

**Amends section 19**

6 Section 19 of the principal Act is amended—

- (a) in subsection (1)(b), by deleting “the period of ten years immediately preceding his application” and substituting “a period of at least 10 years preceding his application”; and
- (b) by inserting after subsection (1)—

“(1A) For the purpose of calculating the ten-year period referred to in subsection (1)(b)—

- (a) periods of ordinary residence may be aggregated, but only continuous periods of 12 months or more; and
- (b) any period of ordinary residence before 20 years immediately preceding the application shall not be taken into account.”.

**Amends section 20**

7 Section 20 of the principal Act is amended by repealing subsection (1A).

**Amends section 31B**

8 Section 31B of the principal Act is amended—

- (a) in subsection (1)—
  - (i) by repealing paragraph (b) and substituting—

“(b) subject to subsection (3), he has been ordinarily resident in Bermuda for a period of at least ten years preceding his application; and”; and
  - (ii) in paragraph (c), by deleting “before 1 August 2010” and substituting “on or after the commencement date of section 8 of the Bermuda Immigration and Protection Amendment Act 2020 but before the expiry of two years from that date”; and
- (b) in subsection (2)—
  - (i) by repealing paragraphs (a), (b), (c) and (d);

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(ii) by deleting “or” at the end of paragraph (e), and inserting after paragraph (e)—

“(ea) the son or daughter of a person who has been granted a permanent resident’s certificate under this section where that son or daughter is above the upper limit of compulsory school age;

(eb) the spouse of a person who has been granted a permanent resident’s certificate under this section where that spouse does not qualify for such grant or for the grant of Bermudian status; or”.

(c) by repealing subsection (3) and substituting—

“(3) For the purpose of calculating the ten-year period referred to in subsection (1)(b)—

(a) ordinary residence shall be calculated from not earlier than when the relationship of son or daughter, or spouse, is established under subsection (2)(e), (2)(ea), (2)(eb) or (2)(f) as the case may be;

(b) periods of ordinary residence may be aggregated, but only continuous periods of 12 months or more; and

(c) any period of ordinary residence before 20 years immediately preceding the application shall not be taken into account.”; and

(d) by repealing subsection (5).

**Amends First Schedule A**

9 The First Schedule A (Persons with a Qualifying Bermudian Connection) to the principal Act is amended—

(a) in paragraph 2—

(i) in subparagraph A—

(A) by repealing sub-subparagraph (b); and

(B) in sub-subparagraph (c), by deleting “or (b)”;

(ii) by repealing subparagraph C; and

(iii) by inserting after subparagraph D—

“E a person who is the son or daughter or brother or sister of a person who has been granted Bermudian status under section 20A of this Act;

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F a person who is the son or daughter of a person who has been granted Bermudian status under section 20B(2)(b) of this Act.”;

(b) in paragraph 3, by inserting “subparagraphs B or D (as the case may be) of” after “specified in”; and

(c) by inserting after paragraph 3—

“3A. For the avoidance of doubt, paragraph 3 does not apply to subparagraphs A, E or F of paragraph 2.”.

**Commencement**

10 This Act shall come into operation on such day as the Minister responsible for immigration may by notice in the Gazette appoint.

[Assent Date: 19 March 2020]