



BERMUDA
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BERMUDIAN STATUS BY BIRTH OR GRANT REGISTER ACT
1992

ARRANGEMENT OF SECTIONS

1	Short title	9	Action by Registrar on objections
2	Interpretation	10	Amendment of the Register
3	The Bermudian Status by Birth or Grant Register	11	Inquiries by the Registrar
4	Establishment of the Register	12	Appeals
5	The right to be on the Register	13	Offence: false statements
6	Conclusive effect of the Register	14	Commencement
7	Objections		First Schedule
8	Hearing of objections		Second Schedule

[Date of Assent 21 December 1992]

[Operative Date 1 June 1993]

WHEREAS it is expedient to institute a Register of Bermudians, and to make connected or incidental provision:

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:—

BERMUDIAN STATUS BY BIRTH OR GRANT REGISTER ACT 1992

Short title

1 This Act may be cited as the Bermudian Status by Birth or Grant Register Act 1992.

Interpretation

2 In this Act, unless the context requires otherwise—

"amendment" means an amendment of the Register under section 10;

"Bermudian" means a person possessing Bermudian status under the 56 Act;

"the Court" means the Supreme Court;

"entry" means an entry in the Register;

"the 56 Act" means the Bermuda Immigration and Protection Act 1956;

"objection" means an objection under section 7, and "to object" and "objector" have corresponding meanings;

"the Register" means the Bermudian Status by Birth or Grant Register provided for by section 3, and "to register" has a corresponding meaning;

"the Registrar" is the Chief Immigration Officer.

The Bermudian Status by Birth or Grant Register

3 (1) There shall be a register (to be called "the Bermudian Status by Birth or Grant Register"), which the Registrar shall maintain at his office.

(2) The purpose of the Register is to serve as an official, and, as far as possible, comprehensive, record setting forth—

(a) the names of all Bermudians; and

(b) such other particulars as the Registrar considers necessary or expedient for identifying persons whose names are on the Register, or otherwise for furthering the Register's usefulness.

(3) The Register is a public document, and the Registrar shall, upon the application of any person—

(a) allow him to inspect and examine the Register or any part of it free of charge; or

(b) upon payment of the appropriate fee allow him to make extracts from the Register; or

(c) upon payment of the appropriate fee prepare and furnish to him copies of extracts from the Register certified by the Registrar or on the Registrar's behalf to be true copies,

as the case may require.

(4) In subsection (3) "appropriate fee" means the appropriate fee prescribed under the Government Fees Act 1965.

Establishment of the Register

4 The First Schedule has effect for the purpose of preparing and establishing the Register.

The right to be on the Register

5 (1) Subject to this Act, every Bermudian has the right to have his name on the Register.

(2) A person answering to the description set forth in Part A of the Second Schedule also has that right.

(3) A person belonging to a class described in Part B of that Schedule does not have that right.

Conclusive effect of the Register

6 (1) A person is conclusively deemed to be a Bermudian at any time when his name is on the Register, whether or not he is indeed a Bermudian at the time.

(2) A person is conclusively deemed to have been a Bermudian at any time when his name was on the Register, whether or not he was indeed a Bermudian at that time.

(3) Subsections (1) and (2) are without prejudice to Part B of the Second Schedule.

Objections

7 (1) A person, whether a Bermudian or not and whether at the time in Bermuda or not, may make objection under this section—

(a) on the ground that an entry or a proposed entry is inaccurate or incomplete or otherwise wrong; or

(b) on the ground that an entry has not been included that ought to be.

BERMUDIAN STATUS BY BIRTH OR GRANT REGISTER ACT 1992

(2) An objection must be made in writing to the Registrar, must set out the ground or grounds on which it is made and must be accompanied by a deposit of five dollars for each entry objected to under paragraph (a), or argued for under paragraph (b), as the case may be, of subsection (1).

(3) The Registrar shall pay the abovementioned deposit of five dollars into the Consolidated Fund unless this Act in any case provides otherwise.

(4) Where in the Registrar's opinion some person other than an objector is affected by an objection, the Registrar shall give that person at least fourteen days notice of the objection and, if that person so desires, an opportunity to be heard by the Registrar with respect to the objection.

Hearing of objections

8 Subsections (2) to (6) of section 19 of the Parliamentary Election Act 1978 (which subsections relate to the hearing of objections to the registration of persons under that Act) apply mutatis mutandis in relation to an objection as those subsections apply in relation to an objection made in accordance with section 17 or 18 of that Act.

Action by Registrar on objections

9 (1) Where the Registrar agrees with an objection, he shall refund the relevant amount deposited by the objector pursuant to section 7(2).

(2) Where the Registrar disagrees with an objection, he shall notify the objector of his disagreement within a reasonable time.

Amendment of the Register

10 (1) The Registrar, and no one else, may amend the Register in any one or more of the following ways—

- (a) to add an entry or to remove an entry;
- (b) to correct an error, whether substantive or merely clerical;
- (c) to give effect to a decision, order or direction of the Court.

(2) An amendment, unless it is made by virtue of section 12(5), takes effect on the date when it is made or on a later date specified by the Registrar.

Inquiries by the Registrar

11 (1) For the purpose of performing his functions, the Registrar may make a relevant inquiry under this section (an "inquiry") at any time.

(2) The Registrar may either conduct an inquiry himself or appoint a person to conduct it and make a report to him.

(3) For the purposes of an inquiry, the Registrar, or the person appointed by him to conduct the inquiry, may by order require any person (subject to the provisions of this Act)—

(a) to furnish a statement in writing with respect to any matter in question at the inquiry, being a matter on which the person required has or can reasonably obtain information, or to return answers in writing to any questions or enquiries addressed to him on any such matter, and to verify any such statements or answers by affidavit;

(b) to attend at a specified time and place and give evidence, or produce any documents in his possession, custody or power, relating to any matter in question at the inquiry.

(4) For the purposes of an inquiry evidence may be taken on oath; and the person conducting the inquiry may administer an oath or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matters about which he is examined.

(5) The Registrar may pay to any person the necessary expenses (not exceeding the amount of five dollars) of his attendance to give evidence or produce documents for the purpose of an inquiry; and a person need not obey an order under paragraph (b) of subsection (3) unless those expenses (but not exceeding that amount) are paid or tendered to him.

Appeals

12 (1) A person who is dissatisfied with the Register for whatever reason shall, if he wishes a remedy, in the first instance make objection pursuant to section 7.

(2) If a person, having so made objection, is dissatisfied with the Registrar's decision as notified to him under section 9(2), he may within twenty-one days of receiving that notification make an appeal to the Court under this section (an "appeal") against the decision.

(3) An appeal shall be commenced by the objector delivering to the Registrar a notice of appeal which specifies the ground or grounds on which the appeal is made; and, unless the Court directs otherwise, a

BERMUDIAN STATUS BY BIRTH OR GRANT REGISTER ACT 1992

ground shall not be argued at an appeal if it was not specified in the notice of appeal.

(4) Subject to this section, the Court shall settle all questions of fact or law raised by an appeal, and make all such orders and give all such directions as the Court deems necessary or expedient for that purpose, including in particular orders or directions governing the date on which an amendment is to take effect.

(5) Subject to subsection (6), the date selected by the Court pursuant to subsection (4) may be a date in the past; and the Court may in any case, in the exercise of its powers under this subsection if the circumstances in its judgment so require, cancel the effect of section 6(1) or (2), or modify that effect to such extent as the Court thinks fit.

(6) The date so selected in relation to the removal of a name from the Register may not be a date in the past.

(7) The Court's jurisdiction in proceedings upon an appeal shall be exercised in chambers.

(8) The Registrar is a necessary party to proceedings upon an appeal; and such other persons shall also be parties to any such proceedings as the Court determines to be affected by the appeal.

(9) Where the Court finds that an objection has been established, the relevant amount deposited by the objector pursuant to section 7(2) shall be refunded to him.

(10) The costs of all proceedings upon an appeal are in the discretion of the Court.

(11) Subject to this section, the Court may determine the practice and procedure to be followed on an appeal.

(12) A decision made by the Court under this section is a judgment of the Court in a civil cause or matter within section 12(1) and (2) of the Court of Appeal Act 1964.

Offence: false statements

13 (1) If a person for any purpose under this Act makes to the Registrar or any other person a statement which he knows to be false or does not believe to be true, he commits an offence against this Act: Punishment on summary conviction: a fine of \$5,000 or imprisonment for 6 months or both.

(2) In subsection (1) the expression "make a statement", in relation to a statement made, includes a wilful omission to state something that the person making the statement knows to be material.

Commencement

14 This Act comes into operation on such day as the Minister responsible for Immigration may appoint by notice published in the Gazette. [see BR 27/93]

FIRST SCHEDULE

(Section 4)

Part A - Preparation of Drafts of the Register

1 The Registrar shall in the first place prepare drafts of the Register in accordance with paragraphs 2 to 7 below.

2 The Registrar shall prepare a first draft of the Register ("draft register 1")—

(a) using, as his base documents—

(i) the general register prepared pursuant to section 7(2) of the Parliamentary Election Act 1978 (the "electoral register") at the time in force; and also

(ii) the three electoral registers that were successively in force next before that electoral register; but

(b) leaving out of account all persons, not being Bermudians, included in those electoral registers by virtue of section 55(1)(b) of the Constitution; and

(c) supplementing the information so obtained by using his powers under section 11 of this Act.

3 The Registrar shall then as soon as may be publish draft register 1.

4 Sections 7, 8 and 9 of this Act apply mutatis mutandis in relation to draft register 1 as those sections apply in relation to the Register.

5 As soon as may be after he has disposed to his own satisfaction of all objections regarding draft register 1, the Registrar shall proceed to prepare a second draft of the Register ("draft register 2") on the basis of the information then available to him, supplementing that information, if need be, by using his powers under section 11 of this Act.

6 Paragraphs 3 and 4 above apply mutatis mutandis in relation to draft register 2 as those paragraphs apply in relation to draft register 1.

7 As soon as may be after he has disposed to his own satisfaction of all objections regarding draft register 2, the Registrar shall proceed to

BERMUDIAN STATUS BY BIRTH OR GRANT REGISTER ACT 1992

prepare a final draft of the Register on the basis of the information then available to him, supplementing that information, if need be, by using his powers under section 11 of this Act; and, as soon as he has completed the preparation of that final draft, he shall publish the draft.

Part B - Establishment of the Register

8 The provisions of this Part have effect for the purpose of establishing the Register.

9 Sections 7, 8 and 9 of this Act apply mutatis mutandis in relation to the final draft of the Register as those sections apply in relation to the Register.

10 As soon as may be after he has disposed to his own satisfaction of all objections regarding the final draft of the Register, the Registrar shall prepare the Register and publish it.

11 The Register is established and takes effect in law when published pursuant to paragraph 10 above.

Part C - Interpretation

12 In this Schedule, the expression "to publish", in relation to a thing, means—

- (a) to make it available for inspection free of charge, for the period of at least three weeks, at the Registrar's office; and
- (b) to make a copy of it available for inspection free of charge, for the period of at least three weeks, at every post office; and
- (c) by a notice in the Gazette to inform the public that sub-paragraphs (a) and (b) have been complied with in relation to that thing.

SECOND SCHEDULE

Part A - Persons entitled to be registered

(Section 5(2))

A person (call him "X") answering to the following description, not being a Bermudian, is entitled to have his name on the Register—

- (a) X was born in Bermuda either before or on or after the commencement of this Act; and
- (b) at least one of X's natural parents is on the Register; and

- (c) that natural parent was a Bermudian at the time of X's birth; and
- (d) if that natural parent was X's father, either—
 - (i) X's natural parents were married before X's birth; or
 - (ii) X was legitimated by the marriage of X's natural parents after X's birth.

Part B - Persons not entitled
to be registered (Section 5(3))

The following classes of persons are not entitled to have their names on the Register—

- A A person whose claim to be a Bermudian depends solely on that person's rights under section 16(2) of the 56 Act or under section 4(2) of the Bermuda Immigration and Protection Amendment Act 1980
- B A person whose claim to be a Bermudian depends on the fact that he has been registered in reliance on an act done by him which the Registrar is satisfied is a contravention of section 13 of this Act, whether or not he has been prosecuted for or convicted of an offence under that section by reason of his doing that act
- C A person who is not a person described in section 5(1) or (2) of this Act
- D A person whose claim to be a Bermudian depends solely on alleged rights arising exclusively by derivation from a person described in paragraph C above.

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1992**

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