



BERMUDA

BERMUDA IMMIGRATION AND PROTECTION
AMENDMENT ACT 2015

2015 : 22

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WHEREAS it is expedient to amend Part VI of the Bermuda Immigration and Protection Act 1956 and Regulations made under that Act;

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:

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT ACT 2015

Citation

1 This Act may be cited as the Bermuda Immigration and Protection Amendment Act
2 2015.

Amends section 72

2 In section 72(1) of the Bermuda Immigration and Protection Act 1956 (“the principal
Act”)—

- (a) in paragraph (c) of the definition of “financial assistance”, at the end insert
“where the provider obtains an equitable interest in the property in
question”;
- (b) in the appropriate place in alphabetical order insert—

“permanent resident” means a person who has been granted a permanent
resident’s certificate by the Minister under section 31A or 31B;”.

Amends definitions of “hotel residence” and “tourist accommodation” to remove
requirement to designate eligible units

3 (1) In the definition of “hotel residence” in section 72(1) of the principal Act—

- (a) insert “and” after paragraph (a);
- (b) repeal paragraph (c) and the “and” preceding it.

(2) In the definition of “tourist accommodation” in section 72(1) of the principal Act
repeal “, and that is designated as eligible tourist accommodation by regulations made
under section 102D(1)(ba)”.

Repeals and replaces section 76

4 Section 76 of the principal Act is repealed and replaced as follows—

“Restricted person holding or acquiring land without a licence

76 No restricted person shall hold or acquire land in Bermuda unless the
restricted person has a licence or a deferral certificate.”

Amends section 77

5 In section 77 of the principal Act, after “restricted person” insert “(other than the
spouse of a person who possesses Bermudian status)”.

Amends section 82

6 In section 82(1)(c)(iv) of the principal Act, delete “Industrial Development” and
substitute “Economic Development”.

Amends sections 85 and 86 with retrospective effect

7 (1) In section 85(1), after paragraph (a) insert—

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“(aa) where an estate representative acquires land and either he is a restricted person or a beneficiary of the estate is a restricted person, the deferral commencing on the date of death of the person whose estate he represents;”.

(2) In section 85(2), repeal paragraph (a).

(3) After subsection (3), insert—

“(4) Where an estate representative acquires land in the case mentioned in subsection (1)(aa) and the Minister has already extended the deferral period in accordance with subsection (3), the Minister may, in writing, extend the deferral period for further additional periods not longer than the original deferral period, but may only do so if he is satisfied that there are exceptional circumstances.”

(4) In section 86(1) and (2) of the principal Act, delete “section 85” and substitute “section 85(1) or (2)”.

(5) After section 86(2) of the principal Act, insert—

“(2A) Any person who seeks a further deferral under section 85(3) or (4) may apply to the Minister for a deferral certificate, including in the application information concerning his identity, a description of the land, the date of the acquisition or holding of the land, and the reasons why he seeks a further deferral.”

(6) In section 86(3) of the principal Act, after “subsection (1)” insert “or (2A)”.

(7) The amendments to sections 85 and 86 of the principal Act made by this section shall be deemed to have come into effect on 22 June 2007; and accordingly new section 85(4) shall empower the Minister to extend the deferral period for a case falling within section 85(1)(aa) that expired at any time before the coming into operation of this Act, if an application is made in accordance with new section 86(2A).

Amends section 89 and amends BR 58/2007

8 (1) In section 89(1) of the principal Act, repeal paragraph (b).

(2) In consequence of the amendment in subsection (1), revoke regulation 9 of the Bermuda Immigration and Protection (Territorial Restrictions) Regulations 2007.

Repeals and replaces section 92 and makes consequential amendments

9 (1) Section 92 of the principal Act is repealed and replaced as follows—

“Restriction on acquiring condominium units

92 (1) The Minister may approve an application for a licence to hold or acquire an interest or estate in a condominium unit (other than tourist accommodation or a hotel residence) by or in respect of a restricted person only if the restricted person is eligible to hold or acquire the condominium unit under subsection (2).

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(2) The following individuals are eligible to hold or acquire the following condominium units—

- (a) an individual described in section 89(4)(a) to (d) may hold or acquire any condominium unit;
- (b) an individual who is a permanent resident or who has a residential certificate issued pursuant to section 32 may hold or acquire any condominium unit if—
 - (i) its annual rental value is greater than the prescribed minimum; and
 - (ii) it is in a development that was developed privately without sponsorship by the government.”

(2) In consequence of the repeal by subsection (1) of former section 92(3) (designation by regulation of certain condominium units)—

- (a) in section 89(3)(b) of the principal Act, repeal “if the unit is designated as a condominium unit by the regulations”;
- (b) in the Bermuda Immigration and Protection (Territorial Restrictions) Regulations 2007—
 - (i) in regulation 2, delete the definitions of “designated condominium development” and “designated condominium unit”;
 - (ii) delete the word “designated” wherever it appears in the expressions “designated condominium development” and “designated condominium unit in each of the following provisions: regulation 2 (in the definitions of “non-residential unit” and “residential unit”) and regulations 6, 7 and 8.

Amends section 97

10 In section 97(1) of the principal Act, at the end insert “, in a case where a transfer of legal title to a restricted person is required”.

Amends section 98

11 (1) In section 98(1) of the principal Act—

- (a) in paragraph (e), after “Bermuda” insert “, except permitted land,”; and
- (b) after subsection (1) insert—

“(1ZA) In subsection (1)(e), “permitted land” means an interest in one other property, whether the licence-holder is the owner or a beneficiary under a trust.”

(2) In section 98(1) of the principal Act, after subsection (1A) insert—

“(1B) The condition in subsection (1)(c) does not apply to a licence issued to a restricted person who is a permanent resident.”

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Amends section 102C(1)(ba)

12 In section 102C(1)(ba)(v) of the principal Act, delete “private Acts” and substitute “other enactments”.

Amends section 102C(1)(c) and amends BR 59/2007

13 (1) In section 102C(1)(c) of the principal Act, after “land held” insert “, by a restricted person who is not a permanent resident, ”.

(2) In consequence of the amendment in subsection (1), in the Bermuda Immigration and Protection (Rental and Use) Regulations 2007, after regulation 2 insert—

“Application

2A These Regulations do not apply to restricted persons who are permanent residents.”

(3) For the avoidance of doubt, on the coming into operation of this Act—

- (a) any permit which has been granted under the Bermuda Immigration and Protection (Rental and Use) Regulations 2007 to a restricted person who is a permanent resident shall lapse and any conditions on the permit shall cease to have effect; but
- (b) a restricted person who is a permanent resident may only use licensed land in accordance with the licence as granted under Part VI of the principal Act or varied in accordance with section 99 of the principal Act.

Amends section 102D and revokes BR 4/2011

14 In consequence of the amendments made by sections 3 and 9—

- (a) section 102D(1)(ba) of the principal Act is repealed; and
- (b) the Bermuda Immigration and Protection (Designation of Eligible Condominium Units, Tourist Accommodation and Hotel Residences) Regulations 2011 are revoked.

Amends BR 57/2007

15 The second column of the table in regulation 2 of the Bermuda Immigration and Protection (Minimum Annual Rental Values) Regulations 2007 (minimum annual rental value for residential valuation unit, other than a condominium unit, available to restricted persons) is amended as follows—

- (a) in the entry relating to permanent residents delete “\$63,600” and substitute “None”;
- (b) in the entry relating to all other restricted persons, delete “\$177,000” and substitute “\$153,000”.

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Amends BR 58/2010

16 In the Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010, the following provisions are revoked—

- (a) in regulation 2(4), the words “and (2)”;
- (b) regulation 3(3) and (4);
- (c) regulation 6(2).

[Assent Date: 08 June 2015]

[Operative Date: 08 June 2015]