

BERMUDA

BERMUDA IMMIGRATION AND PROTECTION ACT 1956

1956 : 30

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PART I

PRELIMINARY

Division of Act into Parts

1 *[omitted]*

Interpretation

2 (1) In this Act, unless the context otherwise requires—

"the Board of Immigration" or "the Board" means the Bermuda Board of Immigration established under this Act;

"the Chief Immigration Officer" means the public officer having the supervision of the Department pursuant to section 11(2);

"the Department" means the Department of Immigration established under this Act;

"dependant", in relation to any person means the wife or, as the case may be, the husband, of that person, and any of the following relations of that person, that is to say, a child, step-child, adopted child, grandchild, parent, step-parent, grandparent, brother, sister, half-brother or half-sister, being in each case wholly or substantially dependent upon that person;

"deportation order" means an order made or in force under Part VII requiring the person in respect of whom it is made to leave and remain out of Bermuda;

"destitute person" means a person who is the cause of, or is likely to be the cause of, public charges by reason of mental or bodily infirmity or insufficiency of means to support himself and his dependants (if any);

"Immigration Appeal Tribunal" means the Tribunal established by section 13A;

"immigration officer" means a public officer appointed to be an immigration officer;

"Minister" means—

(a) except in relation to Part VI, the Minister responsible for immigration;

(b) in relation to Part VI, the Minister responsible for land licences;

"permanent resident" means a person who has been granted a permanent resident's certificate (other than one that has been revoked under section 31D or has otherwise ceased to have effect);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certificate granted under section 31A (including such certificate granted under section 31A as it was before being repealed and replaced by the Incentives for Job Makers Act 2011), or section 31ZA, 31ZB or 31B;

"prescribed" means, in relation to any matter, prescribed by a statutory instrument in force under this Act and relating to that matter;

"public charges" includes charges against municipal or parochial funds, or against the funds of any hospital supported wholly or in part out of public funds;

"special category person" has the meaning given in section 59(1); and "special category person in Government employment" has the meaning given in section 59(2);

"stop list" has the meaning given in section 31(5);

"undesirable person" means a person who is, or who has been, so conducting himself (whether within or outside Bermuda) as to be, or to be likely to be, prejudicial to the proper maintenance of peace, good order, good government or public morals in Bermuda; and "undesirable", in relation to the conduct of any person, shall be construed accordingly.

(2) Notwithstanding section 18A of the Children Act 1998, for the purposes of any provision of this Act where it is necessary to determine if the relationship of parent and child exists between two persons, the Minister—

(a) may take into account such information as he considers appropriate; and

(b) must be satisfied that, prior to the child's fifteenth birthday, the person has held himself or herself out as the parent of the child either by—

(i) receiving the child into his or her home and bringing up the child as a member of his or her family; or

(ii) by providing maintenance and support for, and otherwise, so far as is practicable, by taking an active role in the overall development of, the child.

[Section 2 subsection (2) added by 2003:16 s.2 effective 2 December 2003; subsection (1) definition of "Minister" deleted and substituted by BR 5/2011 para.5 effective 25 February 2011; "Immigration Appeal Tribunal" inserted by 2011 : 30 s. 2 effective 10 August 2011; Section 2 subsection (1) definitions "permanent resident" and "permanent resident's certificate" inserted by 2020 : 16 s. 2 effective 1 September 2020; Section 2 subsection (1) definition "Minister" deleted and substituted by 2020 : 51 s. 2 effective 21 December 2020; Section 2 subsection (1) definition "permanent resident's certificate" amended by 2021 : 41 s. 5 effective 1 December 2021]

Meaning of "Commonwealth citizen" and "alien"

3 (1) For the purposes of this Act "Commonwealth citizen" has the same meaning as it has in the British Nationality Act 1981 of the United Kingdom, that is to say, it means a person who has the status of a Commonwealth citizen under that Act; and for those purposes "alien" also has the same meaning as "alien" has in that Act, that is to say, it means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland within the meanings respectively assigned to those expressions in that Act.

(2) A person who is a Commonwealth citizen shall for all the purposes of this Act be treated as a Commonwealth citizen, notwithstanding that by virtue of the law of any foreign country he may be also a national or citizen of that country.

(3) *[Added and repealed by 1995:36]*

Construction of references to "Bermudian status"

4 Any reference in this Act to the acquisition, possession or enjoyment of Bermudian status shall be construed as a reference to the acquisition, possession or enjoyment of such status by virtue of section 16 of this Act or section 6 of the Bermudian Status by Birth or Grant Register Act 1992.

[Section 4 amended by 2007:16 s.3 effective 22 June 2007]

Procedure on appeal to Immigration Appeal Tribunal

5 Where under any provision of this Act an appeal to the Immigration Appeal Tribunal is allowed, the procedure in respect of any such appeal shall be the procedure specified in section 124.

[Section 5 amended by 2011 : 30 s. 5 effective 10 August 2011]

Inclusion of offences against statutory instruments

6 Except as otherwise expressly provided, any reference in this Act to an offence against this Act shall be construed as including, where the context allows, a reference to an offence against any statutory instrument in force thereunder.

Procedure for recovery of public charges

7 Where under any provision of this Act any person is declared to be financially responsible for any public charges incurred in respect of any other person, the procedure for recovering the amount of such charges shall be the procedure specified in section 129.

Effect of grants

7A (1) A grant to a person shall not, except to the extent, if any, expressed in the grant, confer upon him any right, or ground or support any hope, claim or expectation which he may assert—

(a) to or of any extension or renewal of the right or rights expressed in the grant; or

(b) to or of the award of any right or rights other than the right or rights so expressed.

(2) In subsection (1), "grant" means a certificate, licence, permit or other permission (whether so called or by any other name) given or issued to a person under any provision of this Act.

Conflict with other laws

8 (1) Except as otherwise expressly provided, wherever the provisions of this Act or of any statutory instrument in force thereunder are in conflict with any provision of any other Act or statutory instrument, the provisions of this Act or, as the case may be, of such statutory instrument in force thereunder, shall prevail.

(1A) Without affecting the generality of subsection (1)—

(a) for the purposes of section 29 of the Human Rights Act 1981, it is declared that the provisions of this Act operate, notwithstanding the Human Rights Act 1981; and

(b) for the purposes of section 30B of the Human Rights Act 1981, any provision of this Act that purports to require or authorize conduct that is a contravention of anything in Part II of the Human Rights Act 1981 has effect, notwithstanding the Human Rights Act 1981.

(2) Subject to subsection (1) nothing in this Act shall absolve any person from any liability that he may incur by virtue of any other Act or at common law.

[Section 8 subsection (1A) inserted by 2017 : 40 s. 2 effective 7 November 2017]

Saving for other Acts and powers of Governor under British Nationality Act 1981

9 (1) Nothing in this Act shall derogate from or abridge any provision of the Quarantine Act 2017 or of any statutory instrument in force thereunder, by or under which the movements of any person may be restricted.

(2) *[repealed]*

(2A) *[repealed]*

(3) Nothing in this Act shall derogate from or abridge any provision of—

(a) the International Organizations, etc. (Immunities and Privileges) Act 1948, or any order made thereunder; or

(b) the United States of America Consular Establishment (Acquisition of Land) Act 1953; or

(c) the Consular Relations Act 1971; or

(d) the Convention between the United Kingdom and the United States of America relative to the disposal of real and personal property, signed at Washington on March 2, 1899.

(4) Nothing in this Act shall derogate from or abridge the exercise of any power conferred upon the Governor by the British Nationality Act 1981 of the United Kingdom.

[Section 9 subsection (3)(b) amended by BR81/1999 effective 1 January 2000; subsections (2) and (2A) repealed, in subsection (3) paras (a) to (c) repealed, former paras (d) to (f) renumbered as (a) to (c), and para (d) inserted, by 2007:16 s.4 effective 22 June 2007; subsection (1) amended by 2017 : 11 s. 17 effective 24 April 2017]

PART II

AUTHORITIES FOR EXECUTION OF ACT

Finality of decisions by Governor and Cabinet

10 (1) Save where otherwise expressly provided and without prejudice to any Parliamentary procedure under the Statutory Instruments Act 1977 applicable to the making of any statutory instrument under this Act, any determination, decision, direction or order come to, given or made in the exercise of any power conferred or the discharge of any duty imposed by or under this Act upon—

(a) the Cabinet;

(b) the Governor, acting in accordance with the advice of the Cabinet; or

(c) the Governor, acting in his discretion in the discharge of his special responsibilities under the Constitution,

shall be final and conclusive and not subject to question or review by any court or tribunal whatsoever.

(2) It shall not be incumbent upon the Governor nor, upon any member of the Cabinet nor upon any public officer to give reasons to any person or authority whatsoever for any such determination, decision, direction or order as is mentioned in subsection (1).

Establishment of Department of Immigration

11 (1) There shall be established a Department of Government which shall be charged with the duty of assisting the Minister in the discharge of his responsibilities under this Act or any other enactment and which shall be known as the Department of Immigration.

(2) The Department shall, subject to the general direction and control of the Minister, be under the supervision of a public officer who shall be known as the Chief Immigration Officer, and shall consist of such other public officers as may from time to time be authorized by the Governor.

[Section 11 amended by 1998:20 effective 18 June 1998]

Board of Immigration

12 (1) The Minister shall by notice in the Gazette appoint annually a Board to be called the Board of Immigration which shall consist of such number of persons, being not less than five nor more than thirteen as the Minister may from time to time decide.

(2) Any person appointed to be a member of the Board shall hold office during the Minister's pleasure and, unless his appointment is earlier terminated it shall be deemed to terminate one year from the date upon which such appointment took effect.

(3) There shall be a Chairman and Deputy Chairman of the Board each of whom shall be appointed by the Minister from among the members of the Board and each of whom shall hold office (as such) during the Minister's pleasure:

Provided that the Board shall be deemed to be duly constituted notwithstanding that there is a vacancy in the office of Chairman or Deputy Chairman or of any member.

(4) At any meeting of the Board the Minister may preside over the meeting if, acting in his discretion, he decides so to do but unless the Minister so decides the meeting shall be presided over by—

(a) the Chairman; or

(b) in the absence of the Chairman, the Deputy Chairman; or

(c) in the absence of both the Chairman and the Deputy Chairman, such member of the Board as the members present elect to act as chairman at that meeting.

(5) Every question or matter to be determined by the Board at any meeting shall be decided by a majority of the votes of the members present and voting on the question or matter:

Provided that in the event of an equal division of votes the person presiding at the meeting may, if he thinks fit, give a second or casting vote.

(6) Fees shall be paid to members of the Board in accordance with the Government Authorities (Fees) Act 1971.

(7) *[Repealed by 2019 : 56 s. 5]*

[Section 12 subsections (1), (2) and (3) amended, and subsection (7) repealed by 2019 : 56 s. 5 effective 20 July 2020]

Minister may consult with or delegate functions to Board of Immigration

13 In the exercise of his powers and duties in relation to immigration affairs and related matters, the Minister may—

(a) consult with, or take the advice of, the Board from time to time as he shall think fit but notwithstanding that the Minister has consulted, or taken the advice of, the Board on any matter he may act in his discretion on such matter; and

(b) delegate to the Board such functions or class of functions within his responsibilities as he may by notice in the Gazette specify,

and, in exercising any such functions delegated under paragraph (b) the Board shall act in accordance with any general or special directions issued by the Minister and shall for all purposes be deemed to be the Minister, but, notwithstanding the foregoing, the

Minister shall remain responsible for the manner in which the Board exercises any such function.

Establishment of Immigration Appeal Tribunal

13A (1) There is established the Immigration Appeal Tribunal which shall hear and determine any appeal, expressly allowed to be made under this Act, against a decision of the Minister.

(2) The Immigration Appeal Tribunal shall comprise a pool of not less than nine persons nor more than 14 persons, appointed by the Minister, after consultation with the Premier, as follows—

(a) two barristers and attorneys of not less than five years' standing who possess Bermudian status, one of whom shall be the Chairman and the other the Deputy Chairman;

(b) two barristers and attorneys of not less than three years' standing who possess Bermudian status; and

(c) other persons with such experience or expertise as the Minister deems necessary from time to time.

(3) The Chairman and Deputy Chairman shall be appointed for terms not exceeding three years and are eligible for reappointment.

(4) The members of the Immigration Appeal Tribunal, other than the Chairman and the Deputy Chairman, shall be appointed for terms not exceeding two years and are eligible for reappointment.

(5) *[Repealed by 2012 : 31 s. 4]*

(6) Where a member of the Immigration Appeal Tribunal dies, is unable to perform his duties or resigns, the Minister may appoint a person to fill the vacancy.

(7) The appointment of a person as a member of the Immigration Appeal Tribunal to fill the vacancy occurring under subsection (7), shall be for the unexpired portion of the term of the member to whose office that person has been appointed and such a person is eligible for reappointment.

(8) A person who has been appointed as a member of the Board of Immigration under section 12 is not eligible to be appointed as a member of the Immigration Appeal Tribunal unless a period of more than two years has elapsed since he has served as a member of the Board of Immigration.

(9) The members of the Immigration Appeal Tribunal shall be entitled to receive out of the funds appropriated by the Legislature for the purpose, such fees and allowances as the Minister may determine.

[Section 13A inserted by 2011 : 30 s. 3 effective 10 August 2011; subsection (5) repealed by 2012 : 31 s. 4 effective 14 September 2012]

Duties of Chairman and Deputy Chairman

13B (1) The Chairman shall appoint a panel to hear and determine any appeal made to the Immigration Appeal Tribunal consisting of the Chairman or Deputy Chairman and two other members.

(2) The Deputy Chairman shall perform any duty assigned by the Chairman and shall act for the Chairman in his absence.

[Section 13B inserted by 2011 : 30 s. 3 effective 10 August 2011; subsection (1) amended by 2013 : 26 s. 2 effective 4 March 2013]

Conflict of interest

13C Where a member of the Immigration Appeal Tribunal has any direct or indirect interest in any matter before it, he shall—

(a) disclose his interest to the Immigration Appeal Tribunal prior to the hearing of the matter; and

(b) have no vote in relation to the matter, unless the Immigration Appeal Tribunal has resolved that the interest does not give rise to a conflict of interest.

[Section 13C inserted by 2011 : 30 s. 3 effective 10 August 2011]

Determination of Appeals

13D (1) On an appeal of the Minister's rejection of an application under section 19 to 20B, 20D to 20F, 31A, 31ZA, 31ZB or 31B or of the Minister's refusal to grant any permission under section 25(1) or of the Minister's decision regarding conditions or limitations imposed under section 25(1), the Immigration Appeal Tribunal may—

(a) confirm the decision of the Minister; or

(b) quash the decision and direct the Minister—

(i) to issue a certificate of Bermudian status under section 21(1) or to grant a permanent resident's certificate under section 31A, 31ZA, 31ZB or 31B, as the case may be, where the appeal is in respect of an application under section 19 to 20B, 20D to 20F, 31A, 31ZA, 31ZB or 31B;

(ii) to grant specific permission to land in, or having landed to remain or reside in Bermuda, where the appeal is in respect of a refusal of permission under section 25(1); or

(iii) to dispense with, vary or modify the conditions or limitations as the Tribunal sees fit, where the appeal is in respect of a decision of the Minister regarding conditions or limitations imposed under section 25(1).

(2) On an appeal of an order made by the Minister under section 22(3), 31D, 34 or the proviso to section 61(7), the Immigration Appeal Tribunal may—

(a) confirm or quash the decision; and

(b) where the Tribunal quashes a decision of the Minister restricting the terms of a permission granted under section 61, direct the Minister to issue an order under the proviso to section 61(7) containing such terms as the Tribunal sees fit.

(3) Notice of the determination of the Immigration Appeal Tribunal, together with a statement of its reasons, shall be given to the appellant and to the Minister and, unless the Immigration Appeal Tribunal otherwise directs, the determination shall come into operation when that notice is given.

[Section 13D inserted by 2011 : 30 s. 3 effective 10 August 2011; subsections (1) and (2) amended by 2013 : 26 s. 3 effective 6 August 2013; Section 13D subsection (1) amended by 2021 : 41 s. 5 effective 1 December 2021]

Powers and procedure

13E (1) For the purpose of conducting a hearing, the Immigration Appeal Tribunal shall have all the powers of a court of summary jurisdiction in relation to the summoning of witnesses, their examination on oath or otherwise and compelling the production of any document or thing relevant to the subject matter of the proceedings.

(2) A decision of the Immigration Appeal Tribunal may be reached by a majority of the members of that Tribunal but any question of law shall be decided by the Chairman of the Immigration Appeal Tribunal or in his absence, the Deputy Chairman.

(2A) The Chairman may, where an appellant has for a period of six months failed to pursue his appeal, dismiss the appeal.

(3) The Immigration Appeal Tribunal may regulate its proceedings as it thinks fit and shall not be bound by the rules of evidence in civil or criminal proceedings.

(4) The Minister may be represented before the Immigration Appeal Tribunal by any public officer or by a barrister and attorney and an appellant may be represented by a barrister and attorney.

(5) Where a vacancy occurs in the membership of the Immigration Appeal Tribunal during the hearing of any matter, the Tribunal may continue to act notwithstanding the vacancy.

[Section 13E inserted by 2011 : 30 s. 3 effective 10 August 2011; Section 13E subsection (2A) inserted by 2026 : 19 s. 2 effective 9 July 2026]

Costs and Rules

13F (1) The Immigration Appeal Tribunal may give such directions as it thinks fit for the payment of costs or expenses by any party to the appeal.

(2) The Immigration Appeal Tribunal may make rules governing the practice and procedure to be followed in relation to its proceedings, including rules—

(a) as to the manner in which the appeal is to be brought;

(b) as to the manner in which the appeal is to be conducted, including provision for any hearing to be held in private and as to the persons entitled to appear on behalf of the parties;

(c) for requiring an appellant or the Minister to disclose or allow the inspection of documents in their custody or under their control;

(d) for requiring any person to attend and give evidence or produce documents in his custody or under his control and for authorising the administration of oaths to witnesses;

(e) for enabling an appellant to withdraw an appeal or the Minister to withdraw his opposition to an appeal and for the consequences of a withdrawal;

(ea) as to the manner in which the Chairman may dismiss an appeal pursuant to section 13E(2A);

(f) for taxing or otherwise settling any costs or expenses which the Immigration Appeal Tribunal directs to be paid and for the enforcement of a direction;

(g) for enabling any preliminary or incidental functions in relation to an appeal to be discharged by the Chairman or, as the case may be, the Deputy Chairman of the Immigration Appeal Tribunal; and

(h) as to any other matter connected with an appeal.

(3) The rules under subsection (2) shall be made by Order subject to the negative resolution procedure.

[Section 13F inserted by 2011 : 30 s. 3 effective 10 August 2011; Section 13F subsection (2)(ea) inserted by 2026 : 19 s. 3 effective 9 July 2026]

Right to appeal decision to the Supreme Court

13G Where a person is aggrieved by a decision of the Immigration Appeal Tribunal or a decision of the Chairman to dismiss his appeal, he may lodge an appeal with the Supreme Court within 21 days from the date of the decision of the Immigration Appeal Tribunal or the decision of the Chairman.

[Section 13G inserted by 2011 : 30 s. 3 effective 10 August 2011; Section 13G amended by 2026 : 19 s. 4 effective 9 July 2026]

Powers and immunities of immigration officers

14 An immigration officer shall, while discharging any duty, or while exercising any power, imposed or conferred on an immigration officer by or under any Act, or by or under any Act of the Parliament of the United Kingdom, be deemed to have the powers and immunities conferred upon police officers by any statutory provision to the extent that such powers or immunities are required in his case for the effective discharge of such duties or, as the case may be, the exercise of such powers.

Duty of police and customs officers in connection with administration of Act

15 It shall be the duty of every police officer and customs officer to aid and assist generally in carrying out this Act; and if any contravention of this Act, or any statutory instrument in force thereunder, or any orders or directions given thereunder, becomes known to any police officer, or customs officer, then it shall be the duty of such officer forthwith to report the contravention to an immigration officer.

PART III

ACQUISITION AND ENJOYMENT OF BERMUDIAN STATUS

General provisions regarding acquisition and enjoyment of Bermudian status; status of wives, widows and children

16 (1) A person shall possess Bermudian status for the purposes of this Act if except for a person referred to in subsection (3) of section 17 or a person referred to in subsection (2) of section 17 to whom subsection (3) of that section applies he is a Commonwealth citizen and possesses that status by virtue of this Part (apart from subsection (2) of this section); and such a person, and a person described in subsection (2) of this section, shall continue to possess, or, in the case of a person described in subsection (2) of this section, shall continue to be deemed to possess and enjoy, Bermudian status unless and until he loses that status by reason of the operation of section 22.

(2) Any person who is under the age of twenty-two years and who—

(a) is a child, or is a step-child or child adopted in a manner recognised by law, of a person who has Bermudian status; or

(b) *[Deleted by 2002:36]*

shall, for the purposes of this Act, be deemed to possess and enjoy Bermudian status

(2A) *[Deleted by 2002:36]*

(2B) A person who but for the fact that he is not a Commonwealth citizen would possess Bermudian status under section 18(1), (2), (3) or (3A), or section 18AA(1), (1A) or (2) shall, for the purposes of this Act, be deemed to possess and enjoy Bermudian status.

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

[Section 16 amended by 1993:51 effective 23 July 1993; by 1994:23 effective 13 July 1994; by 1997:33 effective 1 May 1998; subsections (2)-(2B) substituted for subsection (2) by 2000:1 s.2 effective 8 March 2000; subsection (2)(a) amended, (2)(b) and (2A) repealed, by 2002:36 Sch para 3 effective 19 January 2004; subsection (2B) amended by 2016 : 37 s. 2 effective 27 July 2016; Section 16 subsection (2B) amended, and subsection (2C) inserted by 2020 : 16 s. 3 effective 1 September 2020]

Acquisition of Bermudian status by persons domiciled for purposes of Immigration Act 1937

17 (1) Any person who was, on 30 June 1956, deemed to be domiciled for the purposes of the Immigration Act 1937 (read, as may in the circumstances be applicable, with the Immigration Act 1937 Amendment Act 1938, and with the Immigration (Special Provisions) Act 1945 , shall, as from 1 July 1956, possess Bermudian status.

(2) Any person who would, on 30 June 1956, have been deemed domiciled for the purposes of the Immigration Act 1937 but for section 5(2) thereof shall, if at least one of his parents was at the date of his birth domiciled in Bermuda (as "domiciled" is construed in subsections (8) and (9) of section 18 of this Act), as from 1 July 1956 possess Bermudian status.

(3) For the purposes of determining whether a person was deemed to be domiciled for the purposes of the Immigration Act 1937 on 30 June 1956 under subsections (1) and (2), a person who was not a British subject on that date shall be deemed to have been a British subject on that date if that person's mother,

(a) had she been that person's father, would have passed to that person on the date of the person's birth, British nationality under the United Kingdom Acts; or

(b) before that person's birth, became a British subject by registering in Bermuda as British under the United Kingdom Acts because she was married to a British subject.

(4) A person who was a British subject on 30 June 1956 shall be deemed to be domiciled for the purposes of the Immigration Act 1937 on that date under subsection (1) if that person was the spouse of a person to whom paragraph (a), (b) or (c) of section 5 of the Immigration Act, 1937 applied on that date, not living apart from that latter person under a decree of a competent court or a deed of separation.

(5) In this section "the United Kingdom Acts" means the British Nationality and Status of Aliens Act 1914, and the British Nationality Act 1948 of the United Kingdom.

[Section 17 amended by 1997:33 effective 1 May 1998; subsection (2) amended by 2000:1 s.6(a) effective 8 March 2000]

Acquisition of Bermudian status by birth

18 (1) Where a person is, after 30 June 1956 and before 23 July 1993, born in Bermuda, he shall possess Bermudian status if he is a Commonwealth citizen and, at the time of his birth, one of his parents possessed Bermudian status.

(2) Where a person is, after 30 June 1956 and before 23 July 1993, born outside Bermuda, he shall possess Bermudian status if—

(a) he is a Commonwealth citizen; and

(b) one of his parents was domiciled in Bermuda at the time of his birth and that parent possessed Bermudian status at that time.

(3) A person shall also possess Bermudian status if, being a Commonwealth citizen at the time of his birth—

(a) he was born in Bermuda on or after 23 July 1993 and, at the time of his birth, one of his parents possessed Bermudian status; or

(b) he was born outside Bermuda on or after 23 July 1993 and, at the time of his birth, one of his parents was domiciled in Bermuda and that parent also possessed Bermudian status.

(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 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).

(4) *[Deleted by 2002:36]*

(5) A person to whom subsection (1) or (2) of this section applies shall be deemed to have attained Bermudian status at the time of his birth.

(6) A person to whom subsection (3) or (3A) of this section applies attains Bermudian status at the time of his birth.

(7) Any reference in subsection (1), (2), (3) or (3A) to the status or domicile of the parent or grandparent of a person at the time of that person's birth shall, in relation to a person born after the death of his parent or grandparent, be construed as a reference to the status or domicile of the parent or grandparent at the time of the death of the parent or grandparent, as the case may be.

(8) Where used in this section "domiciled" has the meaning ordinarily applied to that word at common law; and "domicile" shall be construed accordingly.

(9) Where—

(a) a person relies upon a woman's domicile at a particular time for the purpose of deducing any rights of his under this section; and

(b) she was married at that time and the domicile of her spouse was other than Bermudian at that time,

her domicile at that time, instead of being the same as that of her spouse by virtue only of the marriage, shall be ascertained by reference to the same factors as in the case of any other individual capable of having an independent domicile.

[Section 18 repealed and replaced by 2000:1 s.3 effective 8 March 2000; subsection (4) repealed amended by 2002:36 Sch para 3(c) effective 19 January 2004; Section 18 amended by 2020 : 16 s. 4 effective 1 September 2020]

Acquisition of Bermudian status by adoption

18AA (1) Where, on or after commencement of this section, 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—

(a) is adopted in Bermuda under the Adoption of Children Act 2006 and, on the date of his adoption, one of his adoptive parents possesses Bermudian status; or

(b) is adopted outside Bermuda, under the law of an approved jurisdiction, and where—

(i) on the date of his adoption, one of his adoptive parents possesses Bermudian status and that parent is (on the date of the adoption) domiciled in Bermuda; and

(ii) his overseas adoption is recognized by the law of Bermuda,

he shall, provided the adoption was initiated before his sixteenth birthday, possess Bermudian status from (and inclusive of) the date of his adoption.

(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.

(2) Where, before commencement of this section, a person not possessing Bermudian status who, on the date of his adoption, was both a Commonwealth citizen and under the age of 18 years—

(a) was adopted in Bermuda under the Adoption of Children Act 1963 or the Adoption of Children Act 2006, and where—

(i) on the date of his adoption, one of his adoptive parents possessed Bermudian status; and

(ii) on commencement of this section, he is under the age of 18 years; or

(b) was adopted outside Bermuda, under the law of an approved jurisdiction, and where—

(i) on the date of his adoption, one of his adoptive parents possessed Bermudian status and that parent was (on the date of the adoption) domiciled in Bermuda; and

(ii) on commencement of this section, he is under the age of 18 years and his overseas adoption is recognized by the law of Bermuda,

he shall possess Bermudian status from (and inclusive of) the date of commencement of this section.

(3) In this section—

(a) "a person not possessing Bermudian status" includes a person who, by virtue of section 16(2), is only deemed to possess and enjoy Bermudian status;

(b) "approved jurisdiction" has the meaning given in section 46 of the Adoption of Children Act 2006;

(c) an adoption is taken to be "initiated"—

(i) in the case of an adoption in Bermuda, only after the Director of Child and Family Services has duly received everything required under regulation 4(2), 5(3) or 6(2) (whichever is applicable) of the Adoption of Children Regulations 2013;

(ii) in the case of an adoption outside Bermuda, under the law of an approved jurisdiction, only after the Director of Child and Family Services has duly received everything required under regulation 9(2) of the Adoption of Children Regulations 2013 (where applicable), or a competent authority in the approved jurisdiction has duly received similar requests, notifications, information or documentation (as may be required in that jurisdiction) to those referred to in subparagraph (i);

(d) "commencement of this section" means the date on which the Bermuda Immigration and Protection Amendment Act 2016 comes into operation.

(4) For the avoidance of doubt, if a person becomes a British overseas territories citizen by virtue of section 15(5) or 15(5A) of the British Nationality Act 1981 (UK) from the date that his adoption is effected, he shall be taken for the purposes of this section to be a Commonwealth citizen on the day the adoption is effected.

(5) Subsections (7), (8) and (9) of section 18 shall have effect, mutatis mutundis, in construing the status or domicile of the adoptive parents under this section.

[Section 18AA inserted by 2016 : 37 s. 3 effective 27 July 2016; Section 18AA amended by 2020 : 16 s. 5 effective 1 September 2020]

18A *[Section 18A repealed by 2001:1 s.3 effective 8 March 2000]*

Right of persons with Bermudian connection to Bermudian status

19 (1) A person may apply to the Minister under this section for the grant of Bermudian status if—

(a) he is a Commonwealth citizen of not less than eighteen years of age; and

(b) he has been ordinarily resident in Bermuda for a period of at least 10 years preceding his application; and

(c) he has a qualifying Bermudian connection.

(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.

(2) The First Schedule A shall have effect for the purpose of determining whether a person has a qualifying Bermudian connection under paragraph (c) of subsection (1).

(3) In relation to subsection (1)—

(a) where any question arises as to a person's ordinary residence in Bermuda, that question shall be decided by the Minister;

(b) where an applicant under this section has been ordinarily resident in Bermuda, and has then been absent from Bermuda for any period for the purpose of his education outside Bermuda, the Minister may count that period of absence as a period of ordinary residence in Bermuda if the Minister is satisfied that, but for that period of absence, the applicant would have in fact continued to be ordinarily resident in Bermuda;

(c) nothing in paragraph (a) or (b) shall have effect so as to preclude any applicant from appealing to the Immigration Appeal Tribunal under subsection (8) on the ground that the Minister came to a wrong decision on the question whether during any material period he was or was not ordinarily resident in Bermuda.

(4) The Minister shall not approve an application under this section if—

(a) the applicant has during the period mentioned in paragraph (b) of subsection (1) been convicted, whether in Bermuda or elsewhere, of an offence which, in the Minister's opinion, shows moral turpitude on the applicant's part; or

(b) the applicant's character or conduct otherwise in the Minister's opinion disqualifies the applicant for the grant of Bermudian status,

but otherwise the Minister shall approve the application if the requirements of this section have been satisfied.

(5) The Minister may require an applicant under this section to attend before him in support of his application, but, unless so required, such an applicant is not entitled to appear before the Minister.

(6) Where the Minister approves an application under this section, he shall forward to the applicant a certificate of Bermudian status which specifies the effective date of the grant of that status and is otherwise in a form approved by the Minister.

(7) Where the Minister rejects an application under this section, he shall inform the applicant of the rejection and of his right to appeal to the Immigration Appeal Tribunal under subsection (8).

(8) A person who is aggrieved by the Minister's rejection of his application under this section may, subject to section 124, appeal to the Immigration Appeal Tribunal against the rejection.

(9) Where a person's application under this section has been rejected, another such application by him need not be considered within 12 months of the date of the rejection.

[Section 19 substituted by 1994:23 effective 13 July 1994; Section 19 amended by 2011 : 30 s. 5 effective 10 August 2011; Section 19 amended by 2020 : 16 s. 6 effective 1 September 2020]

Right of spouses to Bermudian status

19A (1) A person may apply to the Minister under this section for the grant to him of Bermudian status.

(2) This section applies to any person who is a Commonwealth citizen and in relation to whom the following requirements are fulfilled—

(a) for the period of ten years immediately preceding the application the applicant has been married to a spouse who throughout that period possessed Bermudian status;

(b) for a period of seven years preceding the application the applicant has been ordinarily resident in Bermuda;

(c) there is enclosed with the application a letter from the applicant's spouse supporting the application.

(3) In construing subsection (2)(b), the following rules shall apply—

(a) the applicant must have been ordinarily resident in Bermuda for the period of two years immediately preceding the application;

(b) the applicant must have been married to the same spouse for the whole of the seven years in question;

(c) in calculating those seven years, no residence in Bermuda other than ordinary residence for a continuous period of twelve months or more (being a period during which the applicant was married to the spouse referred to in paragraph (b)), shall be taken into account.

(4) The Minister shall not approve an application under this section if—

(a) in the Minister's opinion the applicant has been estranged from the applicant's spouse within the period of two years immediately preceding the application; or

(b) the applicant has between the earliest date of the period mentioned in subsection (2)(b) and the date of the application been convicted, whether in Bermuda or elsewhere, of an offence which, in the Minister's opinion, shows moral turpitude on the applicant's part; or

(c) the applicant's character or previous conduct otherwise in the Minister's opinion disqualifies the applicant for the grant of Bermudian status,

but otherwise the Minister shall approve the application.

(5) An application may be made under this section by a person who was married to a spouse possessing Bermudian status (a "Bermudian spouse") but whose Bermudian spouse died before the application was made, but in relation to such a person this section shall apply without modification up to the time of the death of the Bermudian spouse and, as respects the time after the death of that spouse, shall apply with the following modifications—

(a) subsection (2)(a) shall be deleted and it shall be provided instead that the application must be made not earlier than ten years after the marriage to the Bermudian spouse was celebrated or after the Bermudian spouse acquired Bermudian status, whichever of those events occurred later;

(b) subsections (2)(c) and (3)(b) shall be deleted;

(c) subsection (3)(c) shall be amended by deleting the brackets and the words within them and substituting "(being a period occurring after the marriage to the Bermudian spouse was celebrated or after the Bermudian spouse acquired Bermudian status, whichever of those events occurred later)";

(d) subsection (4)(a) shall be deleted and it shall be provided instead that the applicant must not, in the opinion of the Minister, have been estranged from the applicant's Bermudian spouse at or within the period of six months immediately preceding the death of the Bermudian spouse.

(6) Subsections (3) and (5) to (9) of section 19 shall have effect mutatismutandis in relation to applications under this section as those subsections have effect in relation to applications under section 19.

[Section 19A substituted by 1994:23 effective 13 July 1994]

Right of persons within s 16(2) to Bermudian status

20 (1) A person who establishes to the satisfaction of the Minister that—

(a) he has reached the age of 18 years but is under the age of 22 years; and

(b) he has been ordinarily resident in Bermuda for the period of five years immediately preceding his application; and

(c) he has for the five years immediately preceding his application been deemed to possess and enjoy Bermudian status by virtue of section 16(2),

shall, on applying to the Minister, be entitled to have Bermudian status granted to him.

(1A) *[Repealed by 2020 : 16 s. 7]*

(2) Subsections (3) and (5) to (8) of section 19 shall have effect mutatismutandis in relation to applications under this section as those subsections have effect in relation to applications under section 19.

[Section 20 subsection (1A) inserted by 2000 : 1 s. 4 effective 8 March 2000; Section 20 subsection (1A) repealed by 2020 : 16 s. 7 effective 1 September 2020]

Right of certain long-term residents to Bermudian status

20A (1) A person may apply to the Minister under this section for the grant of Bermudian status if—

(a) he was born in Bermuda or first arrived in Bermuda before his sixth birthday; and

(b) he is a Commonwealth citizen of not less than eighteen years of age; and

(c) he was ordinarily resident in Bermuda on 31 July 1989 and on the day of commencement of the Bermuda Immigration and Protection Amendment Act 1994; and

(d) he has been ordinarily resident in Bermuda for the period of ten years immediately preceding his application; and

(e) he makes his application on or before 31 July 2008.

(2) Subsections (3) to (9) of section 19 shall have effect mutatismutandis in relation to applications under this section as those subsections have effect in relation to applications under section 19.

[Section 20A substituted by 1994:23 effective 13 July 1994]

Right to Bermudian status in certain other cases

20B (1) A person may apply to the Minister under this section for the grant to him of Bermudian status.

(2) This section applies to a person who is a Commonwealth citizen not possessing Bermudian status, was ordinarily resident in Bermuda on 31st July 1989 and either—

(a) (i) is a person at least one of whose parents possessed Bermudian status at the time of his birth; and

(ii) was born in Bermuda or first arrived in Bermuda before his sixth birthday; or

(b) is a British Dependent Territories citizen by virtue of the grant to him by the Governor of a certificate of naturalisation under the British Nationality and Status of Aliens Act 1914 (U.K.) or the British Nationality Act 1948 (U.K.) or the British Nationality Act 1981 (U.K.), having been approved for the grant of Bermudian status; or

(c) being a woman, is a British Dependent Territories citizen by virtue of the grant to her by the Governor of registration under section 6(2) of the British Nationality Act 1948 (U.K.) with the result that she thereby acquired rights under section 4(2) of the Bermuda Immigration and Protection Amendment Act 1980,

and in relation to whom in addition the requirements of subsection (3) are fulfilled.

(3) The requirements referred to in subsection (2), in relation to an applicant for the grant of Bermudian status under this section, are as follows—

(a) the applicant must have reached the age of eighteen years before the application was made;

(b) the applicant must have been ordinarily resident in Bermuda for the period of ten years immediately preceding the application.

(4) Subsections (3) to (9) of section 19 shall have effect mutatismutandis in relation to applications under this section as those subsections have effect in relation to applications under section 19.

[Section 20B inserted by 1994:23 effective 13 July 1994]

Qualification for grant of Bermudian status under sections 20D to 20F.

20C (1) Unless otherwise provided, the provisions of this section shall have effect in respect of an application for Bermudian status under sections 20D to 20F.

(2) A person may apply to the Minister under section 20D, 20E or 20F for the grant of Bermudian status if—

(a) he is a Commonwealth citizen;

(b) he was ordinarily resident in Bermuda on or before 31 July 1989;

(c) he has been ordinarily resident in Bermuda for the period of twenty years immediately preceding his application; and

(d) he makes his application before 1 August 2010.

(3) For the purposes of subsection (2)(b) and (c), but subject to subsections (4) to (7), where—

(a) a person who was working in a company in Bermuda has been absent from Bermuda for any period for the purpose of working in another

country in a wholly-owned subsidiary or branch, or the parent company, of the company which employed him in Bermuda; and

(b) the Minister is satisfied that but for that period of absence the person would have in fact continued to be ordinarily resident in Bermuda,

the Minister may take into account a period of ordinary residence immediately before and after such absence.

(4) The power conferred upon the Minister by subsection (3) extends to the spouse, and a dependent child, accompanying the person referred to in that subsection.

(5) For the purposes of subsection (4) a dependent child who for the purpose of his education is absent from Bermuda and resides in a country other than a country referred to in subsection (3) shall be treated as resident with the person and his spouse.

(6) Subsection (3) does not apply to a person, and subsection (4) does not apply to the spouse or dependent child of a person, who, while he is absent from Bermuda, is employed otherwise than as provided in subsection (3); and for the avoidance of doubt it is hereby declared that in any such case a period of ordinary residence in Bermuda before such absence shall not be taken into account for the purpose of determining twenty years of ordinary residence in Bermuda.

(7) Subsection (3) shall not have effect unless the person, his spouse and dependent child, if any, resume ordinary residence in Bermuda within a period not exceeding six months beginning on the date when the person ceases to be employed outside Bermuda as provided in that subsection.

(8) Subsections (3) to (9) of section 19 (right of persons with Bermudian connection to Bermudian status) shall have effect, *mutatismutandis* in relation to an application under section 20D, 20E or 20F as those subsections have effect in relation to an application under section 19.

[Section 20C inserted by 2002:16 s.2 effective 30 October 2002]

Right of siblings of Bermudians to Bermudian status

20D (1) A person may apply to the Minister under this section for the grant of Bermudian status if—

(a) he satisfies the qualification requirements specified in section 20C; and

(b) he has other siblings all of whom possess Bermudian status.

(2) In this section "sibling" means a person, who possesses Bermudian status and who in relation to the person referred to in subsection (1) is—

(a) a brother or sister born within the same marriage;

(b) a step-brother or step-sister born within another marriage;

(c) an adopted brother or adopted sister whether such adoption is by one or both parents;

(d) a brother or sister or half-brother or half-sister born out of wedlock.

[Section 20D inserted by 2002:16 s.2 effective 30 October 2002; subsection (2)(d) substituted for (d) and (e) by 2002:36 Sch para 3(d) effective 19 January 2004]

Right of parents of Bermudians to Bermudian status

20E (1) A person may apply to the Minister under this section for the grant of Bermudian status if—

(a) he satisfies the qualification requirements specified in section 20C;

(b) on 31 July 1989 he had been ordinarily resident in Bermuda for a period of at least twenty years; and

(c) he is the parent of one child who possesses Bermudian status, or of more than one child, all of whom possess Bermudian status.

(2) In this section "child" means—

(a) a child whether born within or outside that person's marriage;

(b) a step-child born within an earlier marriage of that person's spouse or former spouse; or

(c) a child who has been adopted by that person in a manner recognised by law.

[Section 20E inserted by 2002:16 s.2 effective 30 October 2002; subsection (2) substituted by 2002:36 Sch para 3(e) effective 19 January 2004; Section 20E subsection (1)(c) amended by 2010 : 1 s. 2 effective 25 February 2010]

Right of non-Bermudian Parliamentary Electors to Bermudian status

20F A person may apply to the Minister under this section for the grant of Bermudian status if—

(a) he satisfies the qualification requirements specified in section 20C;

(b) he was registered in the parliamentary register on 1 May 1976; and

(c) he is registered in the parliamentary register which is current at the time that this section comes into operation.

[Section 20F inserted by 2002:16 s.2 effective 30 October 2002]

Certificate of Bermudian status

21 (1) Where the Minister is satisfied that any person possesses and enjoys Bermudian status by virtue of this Part, he may grant to that person a certificate that he possesses and enjoys Bermudian status under the section in question, specifying the section:

Provided that, if at any time it appears to the Minister that a person to whom a certificate has been granted under this section does not in fact possess or enjoy Bermudian status under this Part or has ceased to possess or enjoy such status by virtue

of section 22, the Minister may, by notice in writing served on that person, require him to surrender that certificate forthwith and thereupon that certificate shall be deemed to be withdrawn.

(2) A certificate granted under this section shall, until the contrary is proved, be evidence for all purposes that the holder of the certificate possesses and enjoys Bermudian status and shall be judicially and officially noticed.

(3) Notwithstanding subsections (1) and (2), a refusal by the Minister to grant a certificate under this section, or the withdrawal of such a certificate, shall not be conclusive evidence that the person applying for the certificate or whose certificate has been withdrawn does not possess or enjoy Bermudian status.

(4) Any person who fails within a reasonable time to surrender to the Minister a certificate granted under this section upon being required to do so by notice in writing commits an offence against this Act.

[Section 21 amended by 1993:51 effective 23 July 1993; and by 1994:23 effective 13 July 1994]

Loss of Bermudian status

22 (1) A person who possesses Bermudian status shall cease to possess or enjoy that status in any of the following circumstances—

(a) where he ceases to be a Commonwealth citizen;

(b) *[deleted]*

(c) *[deleted]*

(d) where, being deemed to possess and enjoy Bermudian status as mentioned in section 16(2) by virtue only of being the child, stepchild, adopted child of a person who possesses Bermudian status—

(i) his parent or step-parent or adopted parent himself ceases to possess Bermudian status; or

(ii) he reaches the age of twenty-two years; or

(iii) he is adopted in such circumstances that he has no parent who possesses Bermudian status.

(2) Except in the circumstances mentioned in subsection (1)(a), a person shall not cease to possess Bermudian status only by reason of the operation of any of the remaining paragraphs of subsection (1) if he possesses, by virtue of any circumstances other than the circumstances mentioned in subsection (1)(a), Bermudian status; and in any such case such person shall continue to possess and enjoy Bermudian status accordingly.

(3) Without prejudice to anything in the foregoing provisions of this section, the Minister may by order deprive any person who has been granted Bermudian status under section 19 or 19A or 20A or 20B(2) of his Bermudian status if the Minister is satisfied that the grant of Bermudian status was obtained by means of fraud, false representation or the concealment of any material fact.

(3A) With respect to any such order under subsection (3)—

(a) the Minister shall by notice inform the person affected of the order and of his right of appeal to the Immigration Appeal Tribunal as hereinafter provided; and

(b) if the person affected is aggrieved by the order he may, subject to section 124, appeal to the Immigration Appeal Tribunal against the order.

(4) Any person who, having possessed Bermudian status ceases by virtue of any of the foregoing provisions of this section to possess, or to be deemed to possess, Bermudian status, shall for the purposes of this Act be treated as if he had never acquired, possessed or enjoyed Bermudian status; and this Act shall, depending upon whether he is a Commonwealth citizen or an alien, thenceforward apply and have effect accordingly.

(5) Nothing in the foregoing provisions of this section shall have effect so as to preclude a person who has, by virtue of such provisions, ceased to possess Bermudian status from applying to the Minister for the grant of Bermudian status under section 19 or 19A or 20A or 20B(2).

[Section 22 amended by 1994:23 effective 13 July 1994; subsection (1)(d) amended by 2000:1 s.6(b) effective 8 March 2000; subsection (1)(d) amended by 2002:36 Sch para 3(f) effective 19 January 2004; subsection (3A) amended by 2011 : 30 s. 5 effective 10 August 2011]

PART IV

CONTROL OF ENTRY AND RESIDENCE IN BERMUDA

Interpretation of Part IV

23 In this Part, unless the context otherwise requires-

"airport", in relation to the arrival of an aircraft in Bermuda, means the Bermuda airport within the meaning of the Civil Airports Act 1949, or, where the aircraft arrives at, and its passengers are disembarked within, one of the Bases within the meaning of the United States Bases (Agreement) Act 1952, then that Base;

"exceptionable person" has the meaning given to it by section 31(7);

"Government ship" means any of Her Majesty's ships or vessels, and includes ships under commission from any foreign government recognized by Her Majesty;

"local representative", in relation to a ship or aircraft, means—

(i) the owner of the ship or aircraft if the owner is in Bermuda; or

(ii) the corporate body owning or operating (whether under charter or otherwise) the ship or aircraft for the time being, where such corporate body maintains an office in Bermuda; or

(iii) the agent in Bermuda for the person or corporate body for the time being owning or operating the ship or aircraft;

"permanent resident"*[Repealed by 2020 : 16 s. 2]*

"service aircraft" means any aircraft for the time being operated by any of Her Majesty's Forces or of any of the armed forces of any foreign government recognized by Her Majesty;

"stop list" has the meaning given to it by section 31(5).

[Section 23 "permanent resident" inserted by 2002 : 16 s. 3 effective 30 October 2002; Section 23 definition "permanent resident" repealed by 2020 : 16 s. 2 effective 1 September 2020]

Construction of expressions relating to landing, etc

24 For the purposes of this Part a person who arrives in Bermuda by any ship or aircraft shall not be deemed to land or to reside or remain in Bermuda—

(a) if, as respects an arrival by ship, he does not leave that ship or, without going ashore, he transfers himself to another ship with the intention of departing from Bermuda by such latter ship, and does not leave that latter ship; or

(b) if, as respects an arrival by aircraft, he does not leave the airport within which the passengers from that aircraft are disembarked:

Provided that a person who is not, *bona fide*, a passenger in transit in a ship shall be deemed to remain and reside in Bermuda if he resides in any vessel (including a yacht or houseboat) within the territorial waters of Bermuda.

Declaration of general principle regarding restriction on entry of persons into Bermuda, and subsequent residence, etc., therein

25 (1) Without prejudice to any of the succeeding provisions of this Part, or to any provision of any other Part, it is hereby declared that it is unlawful for any person other than a person—

(a) who possesses Bermudian status; or

(b) who is for the time being a special category person; or

(c) who is, *bona fide*, a visitor to Bermuda; or

(d) who is a permanent resident;

to land in, or having landed, to remain or reside in, Bermuda, without in each case specific permission (with or without the imposition of conditions or limitations) being given by or on behalf of the Minister; and, as respects any special category person or a *bona fide* visitor or a person who is a permanent resident, such landing, remaining or residence shall be unlawful unless he conforms to any requirements imposed by this Part:

Provided that the Minister, in his discretion, may dispense with the requirements imposed by the foregoing provisions of this subsection.

(2) Any person who is aggrieved by any decision of the Minister with respect to a refusal to grant any permission under subsection (1) or with respect to any condition or limitation imposed under subsection (1) may, subject to section 124, appeal to the Immigration Appeal Tribunal against such decision.

(3) Section 27 and section 30 have effect respectively with respect to the special status, as respects entitlement to land in Bermuda, or to remain or reside therein, of wives and dependent children of persons who possess Bermudian status, and of wives and dependent children of special category persons.

(4) The provisions of this Part shall be construed subject to Article III of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty, London, 19 June 1951, as applied to Bermuda and the Visiting Forces Act (Application to Bermuda) Order 2001.

[Section 25 subsection (4) inserted by 2002:6 s.4 & Sch 3 effective 18 June 2002; subsection (1) amended by 2002:16 s.4 effective 30 October 2002; subsection (2) amended by 2011 : 30 s. 5 effective 10 August 2011]

Order to declare landing or entry prohibited

26 (1) Notwithstanding anything in sections 23, 24, or 25, the Minister, after consultation with the Chief Immigration Officer, may by order prohibit the landing in or entry into Bermuda of persons of any particular nationality, from any particular place or of any category during the period specified in the order.

(2) Nothing in an order under subsection (1) shall prohibit the landing or entry of any person who possesses Bermudian status or who is the spouse or dependent child of a person who possesses Bermudian status and in respect of whom the conditions in section 27 are fulfilled.

(3) Any person provided in an order under subsection (1) who lands in, enters into, remains or resides in Bermuda without the written permission of the Chief Immigration Officer shall be removed or deported from Bermuda and shall be financially responsible for any public charges incurred in respect of such removal or deportation.

(4) Written permission provided by the Chief Immigration Officer in subsection (3) shall be subject to any conditions or restrictions as appear to the Chief Immigration Officer to be necessary or desirable in the public interest and any person permitted to land or enter, remain or reside shall comply with such conditions or restrictions.

(5) An order made under subsection (1) shall be subject to the negative resolution procedure.

[Section 26 repealed and replaced by 2024 : 1 s. 2 effective 5 January 2024]

Special provisions relating to landing, etc., of alien wives, etc., of persons who possess Bermudian status

27 Notwithstanding anything in section 25, and without prejudice to anything in section 60 (which section imposes restrictions on the engagement of such persons in gainful occupation) the wife and dependent children under eighteen years of age of a person who possesses Bermudian status shall be allowed to land and to remain or reside in Bermuda

in connection with the residence therein of the person who possesses Bermudian status as if such wife or child were deemed to possess Bermudian status if all the following conditions are fulfilled—

(a) the wife or dependent children must not land, or remain or reside in Bermuda, while the husband or father, as the case may be, is not ordinarily resident, or is not domiciled, in Bermuda;

(b) the wife must not commence to live apart from her husband under a decree of a competent court or under a deed of separation; and

(c) the wife and dependent children must not, while residing in Bermuda, contravene any provision of Part V (which Part relates to engagement in gainful occupation),

but if any of such conditions are not fulfilled, then the landing of such wife and dependent children, or their residence in Bermuda, shall be deemed to become unlawful except with the specific permission of the Minister.

[Section 27 amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]

Special provisions relating to landing etc of husbands of Bermudians

27A (1) Notwithstanding anything in section 25 and without prejudice to anything in section 60, but subject to subsection (4), the husband of a wife who possesses Bermudian status (a "special status husband") shall be allowed to land and to remain or reside in Bermuda as if he were deemed to possess Bermudian status, if the conditions specified in subsection (2) are fulfilled in relation to him.

(2) The conditions to be fulfilled in relation to a special status husband are as follows—

(a) his wife must be ordinarily resident, or be domiciled, in Bermuda;

(b) he must not contravene any provision of Part V;

(c) he must not have a relevant conviction recorded against him;

(d) the Minister must be satisfied that the special status husband is a person of good character and previous good conduct;

(e) the Minister must be satisfied that the special status husband and his wife are not estranged.

(3) In relation to a special status husband "relevant conviction" in subsection (2) (c) means a conviction, whether in Bermuda or elsewhere, of an offence which, in the Minister's opinion, shows moral turpitude on the special status husband's part.

(4) If a condition specified in subsection (2) is not fulfilled in relation to a special status husband, his landing or remaining or residing in Bermuda shall be deemed to be, or, as the case may require, to become, unlawful except with the specific permission of the Minister.

[Section 27A inserted by 1987 : 35 s. 7 effective 9 July 1987]

Requirements imposed in respect of *bona fide* visitors

28 (1) Notwithstanding anything in section 25, it shall be unlawful for a person, notwithstanding that he is, *bona fide*, a visitor to Bermuda, to land or to remain or reside in Bermuda without specific permission granted by or on behalf of the Minister, unless all the following conditions are fulfilled—

(a) he must not be, at the time of his landing, an exceptionable person within the meaning of section 31;

(b) he must, both at the time of his landing and throughout the period during which he remains or resides in Bermuda, be in possession of a passenger ticket valid for his departure by ship or aircraft from Bermuda at some time during his unrestricted period of residence; and the journey for which such ticket is valid must be to a country into which the visitor has, at the material time, a right of entry;

(c) he must not remain or reside in Bermuda after the expiration of his unrestricted period of residence; and

(d) he must, throughout his unrestricted period of residence, continue to be, *bona fide*, a visitor to Bermuda.

(2) In this section "unrestricted period of residence", in relation to a visitor to Bermuda, means within any 12-month period—

(a) the period of six months or 180 days (whichever is greater) whether consecutive or cumulative, beginning on the date on which the visitor first lands in Bermuda; or

(b) such lesser period as the Minister may specify by notice in writing served on that visitor under subsection (3).

(3) The Minister may, by notice served on a visitor to Bermuda, reduce the unrestricted period of residence of that visitor to the period specified in the notice, or may order that the period shall terminate forthwith or on a day specified in the notice, and, for all purposes, the unrestricted period of residence of that visitor shall be reduced and terminate accordingly, irrespective of the date of arrival in Bermuda of that visitor.

[Section 28 subsection (2) repealed and substituted by 2022 : 36 s. 2 effective 15 January 2024]

Requirements imposed in respect of special category persons

29 Notwithstanding anything in section 25, it shall be unlawful for a person, notwithstanding that he is a special category person, to land or to remain or to reside in Bermuda without specific permission granted by or on behalf of the Minister unless both the following conditions are fulfilled—

(a) he must not be, at the time of his landing, an exceptionable person within the meaning of section 31;

(b) he must, throughout his period of residence in Bermuda, remain a special category person.

Special provisions with respect to wives and dependent children of special category persons

30 (1) Notwithstanding anything in sections 23 to 29, the wife and dependent children under eighteen years of age of a special category person or a person who is a permanent resident shall be allowed to land and to remain or reside in Bermuda without the specific permission of the Minister, if all the following conditions are fulfilled—

(a) the wife or dependent child must not be, at the time of landing, an exceptionable person within the meaning of section 31;

(b) the wife or dependent children must not remain or reside in Bermuda after the residence in Bermuda of the special category person or a person who is a permanent resident ceases as such;

(c) the wife must not commence to live apart from her husband under a decree of a competent court or under a deed of separation; and

(d) the wife and dependent children must not, while residing in Bermuda, contravene any provision of Part V (which Part relates to engagement in gainful occupation),

but if any of such conditions is not fulfilled, then the landing of such wife and dependent children, or, as the case may be their residence in Bermuda, shall be deemed to become unlawful except with the specific permission of the Minister.

(2) Notwithstanding anything in subsection (1), the Minister may make it a condition of the landing in Bermuda of any such wife or dependent child, and of remaining and residing therein, that a sum of money be deposited with the Chief Immigration Officer as mentioned in section 33(e) in respect of such wife or dependent child.

[Section 30 amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001; subsection (1) amended by 2002:16 s.5 effective 30 October 2002]

Provisions relating to exceptionable persons

31 (1) Notwithstanding anything in sections 23 to 30, but subject as in this section provided, where it appears to an immigration officer that a person arriving in Bermuda is an exceptionable person within the meaning of this section the immigration officer shall so inform that person, and shall not allow him to land in Bermuda except in accordance with such general or special directions—

(a) as the Governor may give, or may have given, in that behalf; or

(b) as the Quarantine Authority may give, or may have given, pursuant to the requirements of the Quarantine Act 2017 in the case of a person deemed to be an exceptionable person under subsection (7)(b),

and for that purpose the immigration officer or a Health Officer, as the case may be, may impose such requirements as are reasonably required to carry any such direction into effect.

(2) Any person arriving in Bermuda who contravenes any requirement lawfully given under subsection (1) commits an offence against this Act.

(3) Without prejudice to anything in Part VII (which Part relates to deportation) no person who has been deported from Bermuda and in respect of whom a deportation order is in force shall land from any ship or aircraft arriving in Bermuda, unless such landing is authorized by the Governor.

(4) Notwithstanding anything in subsections (1), (2) or (3), where an exceptionable person is a special category person in Government employment he shall not be refused permission to land in Bermuda, or to reside or remain therein, unless the Governor or Quarantine Authority pursuant to the Quarantine Act 2017 has given, or gives, any general or special directions in that behalf; so, however, that any such exceptionable person may be refused permission to land for so long as it may require to obtain a direction from the Governor in his case.

(5) The Governor may take into consideration the case of any person who, not being a person who possesses Bermudian status, is for the time being outside Bermuda; and where it appears to the Governor—

(a) that any such person is a person who has, while in Bermuda, conducted himself in a manner which is undesirable; or

(b) that any such person is a person whose landing in Bermuda appears undesirable in view of information or advice received from any official or other trusted source,

the Governor may cause that person's name to be entered on a list (in this Act referred to as "the stop list") to be maintained by the Governor.

(6) An exceptionable person whose name is for the time being entered in the stop list shall not be permitted to land in Bermuda unless such landing is authorized by the Governor.

(7) For the purposes of this section a person arriving in Bermuda shall be deemed to be an exceptionable person if he does not possess Bermudian status and if—

(a) he is a person suffering from mental disorder within the meaning of the Mental Health Act 1968; or

(b) he is suffering from a communicable disease within the meaning of the Quarantine Act 2017; or

(c) he is a destitute person; or

(d) he has previously been removed or repatriated from Bermuda and has not reimbursed the Government with the amount, if any, utilized from public funds to effect, or assist in effecting such removal or repatriation; or

(e) if he is a person who is reasonably believed to have come to Bermuda for any immoral purpose; or

(f) if he has, since attaining the age of 14 years, been convicted in any place of an offence of a nature punishable in Bermuda with imprisonment for a term of two years or more; or

(g) if he is a person whose name is for the time being entered in the stop list maintained under subsection (5); or

(h) if he is a person whose landing would by reason of any provision of this Act be unlawful; or

(i) if he is a person who has at any time during the previous 12 months, after being a *bona fide* visitor to Bermuda, remained or resided in Bermuda after the expiration of his unrestricted period of residence as determined in accordance with section 28, and the Minister has notified the Chief Immigration Officer that such person shall be deemed to be an exceptionable person.

(8) For the purposes of this section any reference to a person who possesses Bermudian status shall be construed as if such reference included a reference to the wife and dependent children under the age of eighteen years of a person who possesses Bermudian status, being a wife or children in respect of whom the conditions referred to in section 27 are fulfilled.

(9) Notwithstanding any provision to the contrary, where the Governor is of the opinion that the exercise of any power or the discharge of any duty conferred or imposed by or under this section relates to matters for which he is responsible under section 65 of the Constitution (which includes, amongst others, matters of external affairs and internal security) the Governor may exercise such power or discharge such duty acting in his discretion.

[Governor's functions delegated to the Minister by BR42/1981 effective 24 July 1981 ; Section 31 subsection (8) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001; subsection (7)(e) amended by 2013 : 35 s. 4 effective 1 April 2014; Section 31 subsection (1) repealed and substituted by 2017 : 32 s. 3 effective 6 October 2017; Section 31 subsections (4) & (7)(b) amended by 2017 : 32 s. 3 effective 6 October 2017]

Right of persons designated under section 5 of the Economic Development Act 1968 as exempt from Part V of this Act, to a permanent resident's certificate

31A (1) A person may apply to the Minister for the grant of a permanent resident's certificate if—

(a) he has been eligible for exemption from Part V of this Act under section 5 of the Economic Development Act 1968 for at least 10 years, and has either—

(i) been granted exemption; or

(ii) made an application which has not been refused;

(b) he has been ordinarily resident in Bermuda for a period of at least 10 years; and

(c) he has been ordinarily resident in Bermuda during the two years immediately preceding the application.

(2) In the case of a person who was resident in Bermuda before 1 January 2012, the reference to 10 years in subsection (1)(a) may be reduced to correspond with any period since 1 January 2002 during which the person would have been eligible to receive exemption from Part V under the new provision, had it come into force on 1 January 2002.

(3) In subsection (2), "the new provision" means section 5 of the Economic Development Act 1968 (as substituted by section 3 of the Incentives for Job Makers Act 2011).

(4) For the purposes of subsection (1)(b), but subject to subsections (5) and (6), periods of continuous residence in Bermuda of 12 months or longer may be aggregated for the purpose of calculating years of ordinary residence.

(5) For the purposes of aggregating periods of continuous residence for calculating years of ordinary residence under subsection (4), a period of absence from Bermuda shall not exceed two years.

(6) Subject to subsection (7), for the purposes of subsection (1)(b), section 20C(3) to (5) shall, subject to necessary modifications, apply to a person making application for a permanent resident's certificate under this section as they apply to a person making an application for Bermudian status under that section.

(7) Section 19(3) to (9) shall have effect, subject to necessary modifications, in relation to an application made under this section as that section has effect, in relation to an application under section 19.

[Sections 31A inserted by 2002:16 s.6 effective 30 October 2002; Section 31A repealed and substituted by 2011 : 41 s. 4 effective 1 January 2012; Section 31A subsections (1) and (2) amended by 2013 : 38 s. 2 effective 17 December 2013]

Right of certain long term residents to a permanent resident's certificate (20 years)

31ZA (1) Subject to the provisions of this section, a person may apply to the Minister under this section for the grant of a permanent resident's certificate if—

(a) he has been ordinarily resident in Bermuda for a period of at least 20 years; and

(b) he has been ordinarily resident in Bermuda during the two years immediately preceding his application.

(2) For the purposes of subsection (1)(a), but subject to subsection (3)—

(a) periods of continuous ordinary residence in Bermuda of 12 months or longer may be aggregated for the purpose of calculating 20 years of ordinary residence; but

(b) any period of ordinary residence before 30 years immediately preceding a person's application shall not be taken into account.

(3) For the purposes of aggregating periods of continuous residence for calculating years of ordinary residence under subsection (2), a period of absence from Bermuda shall not exceed four years.

(4) Section 19(3) to (9) shall have effect, subject to necessary modifications, in relation to an application made under this section as that section has effect in relation to an application under section 19.

[Section 31ZA inserted by 2021 : 41 s. 2 effective 1 December 2021]

Right of certain long term residents to a permanent resident's certificate (15 years)

31ZB (1) Subject to the provisions of this section, a person may apply to the Minister under this section for the grant of a permanent resident's certificate if—

(a) he has been ordinarily resident in Bermuda for a period of at least 15 years;

(b) he has been ordinarily resident in Bermuda during the two years immediately preceding his application; and

(c) he is the non-Bermudian parent of a son or daughter who possesses Bermudian status.

(2) For the purposes of subsection (1)(a), but subject to subsection (3)—

(a) periods of continuous ordinary residence in Bermuda of 12 months or longer may be aggregated for the purpose of calculating 15 years of ordinary residence; but

(b) any period of ordinary residence before 25 years immediately preceding a person's application shall not be taken into account.

(3) For the purposes of aggregating periods of continuous residence for calculating years of ordinary residence under subsection (2), a period of absence from Bermuda shall not exceed three years.

(4) Section 19(3) to (9) shall have effect, subject to necessary modifications, in relation to an application made under this section as that section has effect in relation to an application under section 19.

[Section 31ZB inserted by 2021 : 41 s. 2 effective 1 December 2021]

Amount to be paid on application for permanent resident's certificate

31AB (1) An applicant for a permanent resident's certificate shall pay to the Accountant General—

(a) an amount of $50,000, where the application is made under section 31A;

(b) an amount of $10,000, where the application is made under section 31ZA or 31ZB.

(2) The amount paid under subsection (1) shall be refundable in the event the permanent resident's certificate is not issued.

(3) The Minister may, after consultation with the Minister of Finance, by Order subject to affirmative resolution procedure amend the amount prescribed under subsection (1).

[Section 31AB inserted by 2011 : 41 s. 4 effective 1 January 2012; subsection (1) amended by 2013 : 38 s. 3 effective 17 December 2013; subsection (1) amended by BR 13 / 2018 order 2 effective 1 April 2018 ; Section 31AB subsection (1) deleted and substituted by 2021 : 41 s. 3 effective 1 December 2021]

Right of certain other persons to permanent resident's certificate

31B (1) Subject to the provisions of this section, a person referred to in subsection (2) may apply to the Minister under this section for the grant of a permanent resident's certificate if—

(a) he is at least eighteen years of age; and

(b) subject to subsection (3), he has been ordinarily resident in Bermuda for a period of at least ten years preceding his application.

(c) *[Repealed by 2021 : 41 s. 4]*

(2) The person referred to in subsection (1) is—

(a) the son or daughter of a person (other than an excepted person) who has been granted a permanent resident's certificate; or

(b) the spouse of a person who has been granted a permanent resident's certificate, where that spouse does not qualify for such grant or for the grant of Bermudian status.

(2A) In subsection (2)(a), an "excepted person" means a person who has been granted a permanent resident's certificate by reason of his parent being granted one under this section.

(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)(a) or (2)(b) 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.

(4) Subsections (3) to (9) of Section 19 shall, *mutatis mutandis*, apply to a person making application for a permanent resident's certificate under this section as it applies to a person making application for Bermudian status under that section.

(5) *[Repealed by 2020 : 16 s. 8]*

(6) *[Repealed by 2021 : 41 s. 4]*

(7) *[Deleted by 2002:36]*

(8) *[Deleted by 2002:36]*

(9) *[Repealed by 2021 : 41 s. 4]*

(10) Except as provided in this section, nothing contained in this section shall be construed as conferring on a person who is related to another person who has been granted a permanent resident's certificate under this section any right to apply for, or be granted, such a certificate.

[Sections 31B inserted by 2002:16 s.6 effective 30 October 2002; subsections (7) and (8) deleted by 2002:36 Sch para 3(g) effective 19 January 2004; Section 31B amended by 2020 : 16 s. 8 effective 1 September 2020; Section 31B amended by 2021 : 41 s. 4 effective 1 December 2021]

Rights, etc. of permanent residents

31C (1) Subject to section 31D, a permanent resident has the right to reside and work in Bermuda.

(2) The right conferred by subsection (1) is not abrogated if a permanent resident who was working in a company in Bermuda is absent from Bermuda for any period for the purpose of working in another country in a wholly-owned subsidiary or branch, or the parent company, of the company which employed him in Bermuda

(3) Subsection (2) extends to the spouse and a dependent child, accompanying a permanent resident.

(4) For the purposes of subsection (3), a dependent child who for the purpose of his education is absent from Bermuda and resides in a country other than a country referred to in subsection (2) shall be treated as resident with the permanent resident and his spouse.

(5) Subsection (2) does not apply to a permanent resident, and subsection (3) does not apply to the spouse or dependent child of a permanent resident, who, except as provided in subsection (2) is absent from Bermuda for more than two years; and, subject to subsection (6), for the avoidance of doubt it is hereby declared that in any such case the provisions of section 31D shall have effect.

(6) The Minister may, where he considers it appropriate so to do, permit a permanent resident to be absent from Bermuda for more than two years.

[Sections 31C inserted by 2002:16 s.6 effective 30 October 2002; Section 31C subsection (1) amended by 2020 : 16 s. 2 effective 1 September 2020]

Revocation of permanent resident's certificate

31D (1) Without prejudice to section 34 the Minister may, by order in writing served upon a person who has been granted a permanent resident's certificate, forthwith or from a date specified in the order, revoke the permanent resident's certificate granted to that person if the Minister is satisfied that—

(a) the permanent resident's certificate was obtained by fraud, false pretence or the concealment of a material fact;

(b) the person to whom the permanent resident's certificate is granted—

(i) is convicted of an indictable offence in Bermuda; or

(ii) is convicted of an offence outside Bermuda which if committed in Bermuda, would have been an indictable offence; or

(iii) except as provided in section 31C (2) to (6) is absent from Bermuda without the permission of the Minister, for a period of two years or more,

and, thereupon, notwithstanding any other provision of this Part, that permanent resident's certificate shall cease to have effect forthwith or on the day specified, as the case may be.

(2) The provisions of section 34(2), (3) and (4) shall have effect, *mutatis mutandis*, to a revocation made under this section as they have effect to a revocation made under section 34.

[Sections 31D inserted by 2002:16 s.6 effective 30 October 2002; Section 31D subsection (1) amended by 2020 : 16 s. 2 effective 1 September 2020]

Power to impose conditions in connection with permission to land, etc

32 (1) Any permission granted by the Governor, the Minister or by an immigration officer, in exercise of any powers conferred upon them by this Part, to any person to land in Bermuda, or to remain or reside in Bermuda may, without prejudice to any express provision of this Act—

(a) be limited in duration to a time specified in the permission; or

(b) be granted subject to compliance with such conditions or restrictions (if any) as the immigration officer (subject to such general or special directions as the Governor or Minister may give in the matter), the Governor or Minister, as the case may be, thinks fit to impose.

(2) Any conditions or restrictions imposed under subsection (1) shall be communicated in writing to a person about to land.

(3) Any person who fails to comply with any condition or restriction imposed under subsection (1) commits an offence against this Act.

(4) The Governor, or Minister, as the case may be, may withhold any permission or grant any permission subject to any duration, condition or limitation without assigning any reason for that decision.

(5) Where a person is granted permission to reside in Bermuda under this section and that permission is unlimited in duration the Minister may grant that person a residential certificate setting out that that person has such permission and resides in Bermuda:

Provided that if the permission of a person holding a residential certificate to reside in Bermuda is revoked, then that person shall surrender to the Minister that residential certificate.

(6) Any person who fails within a reasonable time to surrender to the Minister a residential certificate issued under this section, upon his permission to reside in Bermuda being revoked, commits an offence against this Act.

Safeguards regarding permission to land, etc

33 (1) Without prejudice to any other provisions of this Part the Minister may require an applicant for the grant of permission to land or remain or reside in Bermuda—

(a) to furnish to the Minister such evidence of good character in respect of himself and his dependants as the Minister may consider necessary;

(b) to furnish to the Minister medical certificates with respect to himself and his dependants certified by medical authorities acceptable to the Minister and with such particulars as the Minister may consider necessary;

(c) to satisfy the Minister that he is able to maintain himself and his dependants in Bermuda;

(d) to give a bond for such sum and with such sureties as the Minister may approve for securing the payment of any public charges that may be incurred in respect of the applicant or his dependants:

Provided that the Minister shall cancel any such bond on the applicant subsequently acquiring Bermudian status and may cancel any such bond at any time on being satisfied that the necessity for the bond no longer exists;

(e) to deposit with the Chief Immigration Officer such sum of money as the Minister may consider sufficient to defray the expenses of the transportation of the applicant and of his dependants to a country outside Bermuda willing to receive him and them;

(f) to furnish to the Minister such particulars (whether of the same kind as those hereinbefore referred to or not) as the Minister may consider material to the consideration of the application,

and the Minister may require that the applicant in complying with any of the requirements of this section shall use forms approved or supplied by the Minister.

(2) Where the permission to land or remain or reside in Bermuda is under this Act to be granted by any, person other than the Minister, that person shall have the like powers as are conferred on the Minister by subsection (1).

Revocation of permission to land, etc

34 (1) Subject to this section, the Minister may, by an order in writing served upon the person to whom it relates, revoke any permission to land, remain or reside which has been granted to that person in accordance with this Part either forthwith or as from a day to be specified in the order; and thereupon, notwithstanding any other provision of this Part, that permission shall cease to have effect forthwith or on the day so specified as the case may be.

(2) Before the Minister makes any order under subsection (1) against any person, he shall cause a notification in writing to be served upon that person that he proposes to make such an order in his case at the expiration of fourteen days or such longer period as may be specified in the notification; and shall inform that person of the grounds upon which the Minister proposes to make the order and shall invite him within that period to submit in writing to the Minister any reason which he wishes to advance why such an order should not be made in his case.

(3) The Minister shall not make any order under subsection (1) until the expiration of the period specified in the respective notification served under subsection (2) and the Minister shall, where reasons are submitted to him in accordance with subsection (2), take those reasons into consideration when he decides whether or not the order should be made.

(4) Any person aggrieved by any decision of the Minister to make an order under subsection (1) against him may, subject to section 124, appeal to the Immigration Appeal Tribunal against such decision.

[Section 34 subsection (4) amended by 2011 : 30 s. 5 effective 10 August 2011]

Duty of local representative of ship or aircraft to give notice of arrival

35 (1) The local representative of every ship or aircraft arriving in Bermuda shall give adequate and timely notification of the arrival of the ship or aircraft to the Chief Immigration Officer or to any immigration officer designated by the Chief Immigration Officer in that behalf, and, if required, to furnish such particulars as he may then have in his possession regarding the passengers or crew on board such ship or aircraft.

(2) Any person who fails to comply with any provision of subsection (1), or with any requirement duly given thereunder, commits an offence against this Act.

Control of landing from ships

36 (1) It shall not be lawful for the master of any ship to cause or allow any passenger or member of the crew or other person on board the ship to land in Bermuda before permission generally to land has been given by an immigration officer.

(2) Any person who contravenes any provision of subsection (1) commits an offence against this Act:

Provided that it shall be a good defence to a person charged with an offence under this section to prove that any such landing took place in emergency, and was, at the earliest time practicable, notified to an immigration officer.

Advance delivery of inward passenger and crew manifest

37 (1) Subject to this section, the master of every ship and the commander of every aircraft departing for Bermuda shall, before the ship or aircraft arrives in Bermuda, deliver to an immigration officer a manifest setting out the following information in respect of every person on board the ship or aircraft—

(a) the person's full names, as they appear in his or her passport or other travel document;

(b) the person's sex, date of birth and nationality;

(c) the person's passport or other travel document number, its date of expiry and country of issue;

(d) whether the person is a passenger or a member of the crew;

(e) whether the person is in transit or is to disembark in Bermuda; and

(f) such additional information as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(2) The manifest, in the case of a ship, shall include—

(a) the voyage number or, where there is no voyage number, the name of the ship;

(b) the name of the shipping line or operator;

(c) the port, date and time of departure of the ship;

(d) the port, date and estimated time of arrival of the ship in Bermuda;

(e) the total number of persons on board the ship; and

(f) such additional information as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(3) The manifest, in the case of an aircraft, shall include—

(a) the flight number or, where there is no flight number, the aircraft's registration number;

(b) the name of the airline or operator;

(c) the airport, date and time of departure of the aircraft;

(d) the date and estimated time of arrival of the aircraft in Bermuda;

(e) the total number of persons on board the aircraft; and

(f) such additional information as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(4) The duty to deliver a manifest may be discharged by the local representative of the ship or aircraft, on behalf of the master or commander.

(5) The manifest shall be delivered electronically, in such manner and within such time after the ship casts off from the port, or the aircraft takes off from the airport, as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(6) The Chief Immigration Officer may prescribe different times and manner of delivery of manifests in respect of different categories of ship or aircraft.

(7) Where there are any other persons (including persons rescued at sea and stowaways) on board a ship or aircraft arriving in Bermuda, as soon as practicable and before such persons have landed in Bermuda, the master or commander shall deliver to

an immigration officer a list of such persons, which list shall include an explanation of their presence on board the ship or aircraft and, where it can be determined, their names and particulars.

(8) A master or commander of a ship or aircraft who fails to deliver a manifest or list as required by this section, or who delivers a manifest or list containing information that he or she knows or ought to know is incomplete or is false, commits an offence against this Act.

(9) The local representative of a ship or aircraft who delivers a manifest on behalf of a master or commander commits an offence against this Act—

(a) if the local representative fails to deliver the manifest as required by this section; or

(b) if the local representative knows or ought to have known that information contained in the manifest is incomplete or is false.

(10) The Chief Immigration Officer may, by Notice published in the Gazette, exempt from the requirement under this section to deliver a manifest—

(a) the master and the local representative of any category of ship; and

(b) the commander and the local representative of any category of aircraft.

(11) The negative resolution procedure shall apply to any Notice by the Chief Immigration Officer under this section.

[Section 37 repealed and replaced by 2007:24 s.2 effective 14 May 2008.]

Advance delivery of outward passenger and crew manifest

38 (1) Subject to this section, the master of every ship and the commander of every aircraft departing from Bermuda shall deliver to an immigration officer a manifest setting out the following information in respect of every person on board the ship—

(a) the person's full names, as they appear in his or her passport or other travel document;

(b) the person's sex, date of birth and nationality;

(c) the person's passport or other travel document number, its date of expiry and country of issue;

(d) whether the person is a passenger or a member of the crew; and

(e) such additional information as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(2) The manifest, in the case of a ship, shall include—

(a) the voyage number or, where there is no voyage number, the name of the ship;

(b) the name of the shipping line or operator;

(c) the port, date and time of departure of the ship;

(d) the port, date and estimated time of arrival of the ship at its destination;

(e) the total number of persons on board the ship; and

(f) such additional information as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(3) The manifest, in the case of an aircraft, shall include—

(a) the flight number or, where there is no flight number, the aircraft's registration number;

(b) the name of the airline or operator;

(c) the date and time of departure of the aircraft;

(d) the airport, date and estimated time of arrival of the aircraft at its destination;

(e) the total number of persons on board the aircraft; and

(f) such additional information as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(4) The duty to deliver a manifest may be discharged by the local representative of the ship or aircraft, on behalf of the master or commander.

(5) A manifest shall be delivered electronically, in such manner and within such time before or after the ship casts off from the port, or the aircraft takes off from the airport, as the Chief Immigration Officer, by Notice published in the Gazette, may prescribe.

(6) The Chief Immigration Officer may prescribe different times and manner of delivery of manifests in respect of different categories of ship or aircraft.

(7) A master or commander of a ship or aircraft who fails to deliver a manifest as required by this section, or who delivers a manifest containing information that he or she knows or ought to know is incomplete or is false, commits an offence against this Act.

(8) The local representative of a ship or aircraft who delivers a manifest on behalf of a master or commander commits an offence against this Act—

(a) if the local representative fails to deliver the manifest as required by this section; or

(b) if the local representative knows or ought to have known that information contained in the manifest is incomplete or is false.

(9) The Chief Immigration Officer may, by Notice published in the Gazette, exempt from the requirement under this section to deliver a manifest—

(a) the master and the local representative of any category of ship; and

(b) the commander and the local representative of any category of aircraft.

(10) The negative resolution procedure shall apply to any Notice by the Chief Immigration Officer under this section.

[Section 38 repealed and replaced by 2007:24 s.2 effective 14 May 2008.]

Special provisions as to Government ships and service aircraft

39 Notwithstanding anything in sections 35, 36, 37 and 38, this section shall have effect in relation to the arrival and departure of Government ships or service aircraft in Bermuda—

(a) it shall be the duty of the appropriate naval, military or air force authority to notify to the Chief Immigration Officer the arrival of the Government ship or service aircraft where the ship or aircraft is believed to carry any person other than—

(i) a member of the crew; or

(ii) a member of Her Majesty's Forces or of the armed forces of any government recognized by Her Majesty for that purpose, being a person who is arriving in Bermuda in the course of his duty as such a member;

(b) it shall be the duty of the captain or other officer commanding a Government ship or service aircraft arriving in Bermuda, to furnish to an immigration officer, if so required, lists showing the names and particulars of persons on board such ship or aircraft (other than persons mentioned in paragraph (a)(i) or (ii)) before any such person lands in Bermuda; and

(c) it shall be the duty of the captain or other officer commanding a Government ship or service aircraft departing from Bermuda, or of the appropriate naval, military or air force authority, to furnish to an immigration officer, if so required, lists showing the names and particulars of persons (other than persons mentioned in paragraph (a)(i) or (ii)) who are departing from Bermuda in such ship or aircraft.

Supervision of landing from ships by immigration officer

40 (1) It shall be the duty of the Chief Immigration Officer to ensure that every ship and, where practicable, every Government ship when carrying passengers, is, on arrival in Bermuda, visited by an immigration officer.

(2) No person shall, except in emergency (the proof of which shall be upon him) land from a ship until an immigration officer has given permission generally for persons to land; so, however, that nothing in this subsection shall be construed as permitting any person to land whose landing would be contrary to any provision of this Part.

Supervision of landing from aircraft by immigration officer

41 (1) It shall be the duty of the Chief Immigration Officer to ensure that the passengers disembarking from any aircraft, and, where practicable, from any service aircraft when carrying passengers, are, as soon as practicable after disembarkation and

before they have landed in Bermuda by reason of leaving the airport or Base at which they have disembarked, interviewed by an immigration officer.

(2) No person having been a passenger in an aircraft, or a member of the crew of an aircraft other than a service aircraft, shall, except in emergency (the proof of which shall be upon him), leave the airport or Base at which he has disembarked from the aircraft until an immigration officer has given him permission to do so.

(3) In this section "Base" has the meaning assigned to it by the United States Bases (Agreement) Act 1952.

Landing cards

42 The Minister may require that persons arriving in Bermuda shall, as a condition of landing, complete and deliver landing cards to an immigration officer.

Duty with respect to removal of persons illegally landing

43 (1) If a ship or aircraft from which any person has landed in contravention of any provision of sections 25 to 42 departs from Bermuda without such person, then if that ship or aircraft, or another ship or aircraft owned or operated by the same person or company as owned or operated, respectively, the ship or aircraft in which such person arrived in Bermuda, returns to or calls at Bermuda within the period of two years next succeeding the date of such illegal landing, then the Minister may by notice require the master of such latter ship or, as the case may be, the commander of such latter aircraft, to receive such person in that ship or aircraft upon that ship or aircraft departing from Bermuda, and to take such person out of Bermuda.

(2) Where a person who, having arrived by any ship or aircraft in Bermuda, and holding a ticket or other instrument of travel entitling him to a journey out of Bermuda, then the Minister may by notice require the master of any ship or the commander of any aircraft owned or operated by the same person or company as owned or operated, respectively, the ship or aircraft in which such person arrived in Bermuda, to receive that person in such ship or aircraft upon that ship or aircraft departing from Bermuda, and to take such person out of Bermuda.

(3) Any person who, being the master of a ship or the commander of an aircraft required to receive any person on the ship or aircraft as aforesaid, refuses to receive such person or take him out of Bermuda commits an offence against this Act.

Special provisions respecting arrivals by aircraft

44 Without prejudice to any other provision of this Part, where a person arrives in Bermuda by aircraft the following provisions shall have effect—

(a) where a person disembarks from an aircraft, then notwithstanding that he has not left the airport at which he arrives, if he is not permitted to leave the airport by reason of his not being permitted to land in Bermuda or if he is permitted to leave the airport subject to the condition that he leaves Bermuda as soon as practicable, it shall be the duty of the commander of the aircraft to receive him on board the same aircraft and take him away from Bermuda, or, if the aircraft has already left or is

delayed, then it shall be the duty of the commander of any subsequent aircraft owned or operated by the same person or company as owned or operated the aircraft by which such person arrived in Bermuda departing from Bermuda to receive him on board that aircraft and take him away from Bermuda; and the commander of any aircraft who refuses to receive any such person and take him away from Bermuda as required by the foregoing provisions of this paragraph commits an offence against this Act; and

(b) the local representative of any aircraft from which such a person has disembarked shall be financially responsible for any public charges incurred in respect of the maintenance of such person while remaining in Bermuda or of his subsequent repatriation, removal or deportation from Bermuda.

Special provisions relating to stowaways and deserters

45 (1) Without prejudice to anything in section 37, (which section requires the submission of lists of persons on board ships) the master of any ship arriving in Bermuda shall forthwith inform an immigration officer of any stowaway or deserter who may be on board the ship, and shall take such steps as are reasonably necessary to prevent the stowaway or deserter from landing illegally in Bermuda.

(2) Without prejudice to anything in subsection (3), no stowaway or deserter shall (unless he possesses Bermudian status) land in Bermuda without the specific permission of the Minister:

Provided that the restriction imposed by subsection (2) shall not have effect so as to preclude any such stowaway or deserter being brought ashore by a police officer for the purposes of prosecution or for any other purpose in connection with the administration of justice.

(3) No stowaway in a foreign ship shall (unless he possesses Bermudian status) be landed in Bermuda without the specific permission of the Governor where such stowaway is landed for the purpose of being prosecuted for a criminal offence:

Provided that nothing in subsection (3) shall have effect so as to restrict the landing of a stowaway who is landed for the purpose of any proceedings to be taken against him under the Extradition Act 1877, or under the Act of the Parliament of the United Kingdom entitled the Fugitive Offenders Act 1881. [*repealed by the Fugitive Offenders Act 1967 which is extended to Bermuda by SI 1967/1905 as amended (see title 8 item 38*)]

(4) Any person who, without lawful excuse (the proof of which shall be upon him), in Bermuda harbours, maintains or employs a person who has landed in contravention of any provision of this section, and whom he knows or has reasonable cause to believe to have so landed, commits an offence against this Act.

Financial responsibility for maintenance of persons illegally landed

46 Where a person lands from a ship or aircraft in contravention of any provision of sections 23 to 45, then, without prejudice to any other provision of this Act, the local representative of such ship or aircraft shall be financially responsible for any public charges reasonably incurred in respect of such person's maintenance while in Bermuda and of his subsequent repatriation, removal or deportation therefrom.

Transit passengers

47 Where a passenger in immediate transit by ship or aircraft from one place outside Bermuda to another place outside Bermuda is—

(a) as a result of illness or other emergency; or

(b) as a result of delay in any ship or aircraft leaving Bermuda; or

(c) as a result of accommodation not being available on any ship or aircraft leaving Bermuda,

allowed to land and to remain in Bermuda, if public charges are reasonably incurred in respect of such passenger while remaining in Bermuda, the local representative of such ship or aircraft shall be financially responsible for meeting such charges.

Power to require medical examinations

48 (1) Any immigration officer may require any passenger or member of the crew of any ship or aircraft (other than a person who possesses Bermudian status) arriving in Bermuda to be examined, as respects his physical or mental condition, by the ship's surgeon (if any), or by a Government Medical Officer or by any other registered medical practitioner who is willing to carry out such examination, as a condition of such person being allowed to land in Bermuda.

(2) Any immigration officer may, for the purposes of subsection (1), direct any passenger or member of the crew of the ship or aircraft to be landed in such custody as the immigration officer may require.

Power to arrest persons illegally landed

49 Where it is made to appear by information on oath to a Justice of the Peace that a person has landed from a ship or aircraft in Bermuda in contravention of this Part the Justice of the Peace may issue a warrant under his hand requiring any immigration officer or police officer to apprehend such person and convey him on board such ship or aircraft, if then in port, or, as the case may be, at an airport or to take him before a court of summary jurisdiction to be dealt with in accordance with this Act.

Offences relating to illegal landing

50 (1) Any person—

(a) who lands or attempts to land in Bermuda; or

(b) who does any act preparatory to landing in Bermuda,

where such landing is, or would be, in contravention of any provision of this Part, commits an offence against this Act.

(2) Any person—

(a) who knowingly assists any person to land in Bermuda; or

(b) who connives in the landing in Bermuda of any person; or

(c) who wilfully does any act preparatory to the landing in Bermuda of any person,

where such landing is, or would be, in contravention of any provision of this Part, commits an offence against this Act.

Offence of harbouring illegal immigrant

50A (1) Subject to subsection (3), a person who harbours an illegal immigrant commits an offence against this Act.

(2) In subsection (1), "illegal immigrant" means a person who at the time of the harbouring was in Bermuda in contravention of the law.

(3) It shall be a good defence for a person charged with harbouring another person contrary to subsection (1) to prove that the person charged did not know, and had no reason to suspect, that the other person was in Bermuda in contravention of the law.

Duty to produce passports, etc

51 (1) Every person intending to land in, or as the case may be, to depart from, Bermuda shall, if required to do so by any immigration officer, produce for inspection any passport, visa, document evidencing nationality, document evidencing permission to enter any country, or other document of a like nature, in his possession.

(2) Any person who fails to comply with any such requirement commits an offence against this Act.

Restriction on signing on and off seafarers

52 (1) The master of a ship shall not in Bermuda sign a seafarer on or off the ship without the previous permission in writing of the Minister:

(2) Subsection (1) shall not apply in relation to any person who possesses Bermudian status.

(3) In this section, "master", "seafarer" and "ship" shall have the same meaning as in the Merchant Shipping Act 2002.

[Section 52 substituted by 2002:35 s.255(2) & Sch 10 para 2 effective 7 April 2003; amended by 2012 : 30 s. 27 effective 30 June 2014]

Re-entry permits

53 (1) Any person who is, for the time being, entitled by any provision of this Act, or permitted by reason of the exercise of any power thereunder, to enter Bermuda may apply to the Minister, for the issue of a re-entry permit.

(2) The Minister shall, in respect of a person entitled in pursuance of subsection (1), issue a re-entry permit valid for such period as the applicant is, at the time of issue, entitled to enter and re-enter Bermuda; but in respect of any person not so entitled, the Minister in his discretion may issue or refuse to issue such re-entry permit:

Provided that nothing in subsection (1) or (2) shall have effect so as to authorize any person to land in Bermuda, notwithstanding his possession of a valid re-entry permit, if he has, since the issue of the permit, become a person who may be refused permission to land in Bermuda.

(3) Notwithstanding anything in this Part which has effect so as to require the master or local representative of a ship, or the commander or local representative of an aircraft, to receive a person on a ship or aircraft and to take him out of Bermuda, or to be deemed to be financially responsible for the maintenance, removal or otherwise of a person, no such requirement or financial responsibility as aforesaid shall be deemed to arise or be incurred if such person were carried by a ship or aircraft while holding a valid re-entry permit; so, however, that the foregoing provisions of this subsection shall not have effect so as to absolve a master, commander or local representative as aforesaid where the master, commander or local representative has received notice in writing from the Minister that the name of the person in respect of whom the re-entry permit was issued has been entered in the stop list.

(4) Fees payable in respect of the issue of a re-entry permit shall be paid to the Chief Immigration Officer.

Distribution of copies of stop list, etc., to shipping agents, etc

54 It is lawful for the Minister to cause copies of the stop list, or notification of the entry in or removal of any name from the stop list, to be given to the local representatives of ships ordinarily calling at Bermuda or to *bona fide* travel agencies.

Regulations

55 The Minister may make regulations for any purposes in connection with the carrying into effect of this Part.

Transitional provisions for Purposes of Part IV

56 *[omitted]*

PART V

REGULATION OF ENGAGEMENT IN GAINFUL OCCUPATION

Interpretation and construction of expressions relating to engagement in gainful occupation; power to declare certain occupations to be treated as gainful occupation

57 (1) This section governs the construction of expressions relating to the engagement of persons in gainful occupation.

(2) "engage in gainful occupation" means, for the purposes of this Part—

(a) to take and continue in any employment; or

(b) to practise any profession; or

(c) to carry on any trade; or

(d) to engage in local business,

where such employment, profession, trade or local business is taken or continued, or is practised, carried on or engaged in, for reward, profit or gain; and cognate expressions shall be construed accordingly.

(2A) "work permit" means, for the purposes of this Part, written confirmation of the Minister's grant of permission to engage in gainful occupation granted to a person under this Part.

(3) "practise any profession" does not include, for the purposes of this Part—

(a) service as a member of a Government Board or other public authority; or

(b) service as a member of a commission appointed under the Commissions of Inquiry Act 1935; or

(c) service as a member of any judicial or quasi-judicial authority, or as a member of any quasi-judicial or arbitration tribunal appointed by the Governor under any Act; or

(d) giving professional evidence within the meaning of the Evidence Act 1905, before any court or other tribunal.

(4) "engage in local business" means, for the purposes of this Part, generally to engage in any business for reward, profit, or gain, and "engage in local business" includes—

(i) the letting of any dwelling-house or part of a dwelling-house for reward, otherwise than as respects the letting of a dwelling-house ordinarily occupied by the lessor during any period when the lessor is temporarily absent from Bermuda;

(ii) acting as a director of any company, firm or other undertaking (other than a company within the definition of "company" in section 2(1) of the Companies Act 1981) which itself carries on business in Bermuda, (so,

however, that the managing director of a company within the definition of "company" in section 2(1) of the Companies Act 1981 which carries on business in Bermuda shall be treated as engaging in local business);

(iii) engaging in any business in Bermuda as a partner (whether or not an active partner) within the meaning of the Partnership Act 1902;

but does not include—

(iv) service as a member of a Government Board or other public authority;

(v) service as a member of a commission appointed under the Commissions of Inquiry Act 1935, or of any arbitration tribunal or other tribunal of a like nature;

(vi) service as a member of either House of the Legislature or as a member of any committee of either House or of any joint select committee;

(vii) service as a member of either municipal corporation, or as a member of a parish council or church vestry;

(viii) acting as a director (other than a managing director) of a company within the definition of "company" in section 2(1) of the Companies Act 1981;

(ix) engaging in any transaction which is solely of the nature of an investment and with respect to which there is (otherwise than as respects the exercise of the powers of a shareholder in a company within the definition of "company" in section 2(1) of the Companies Act 1981) no element of continuing direction.

(5) Notwithstanding anything in subsections (1), (2), (3) or (4) the Minister, by statutory instrument to which section 6 of the Statutory Instruments Act 1977 shall not apply, may declare that engagement in any occupation specified in the regulations shall, for the purposes of this Part, be treated as if it were engagement in gainful occupation; and as from the date of the coming into operation of the regulations this Part shall be deemed to apply and have effect accordingly.

(6) For the purposes of subsection (2) any employment profession, trade or local business shall be deemed to be taken or continued, practised, carried on or engaged in, (as the case may be) for reward, profit or gain if such employment, profession, trade or local business is ordinarily in Bermuda continued, practised carried on or engaged in for reward, profit or gain, notwithstanding that no reward, profit or gain may be obtained or obtainable in the circumstances of the particular case.

[Section 57 subsection (2A) inserted by 2013 : 35 s. 2 effective 1 April 2014]

Saving for powers under Parts IV and VII

58 Nothing in this Part shall derogate from or abridge any power which may be exercised by the Governor or by the Minister under Part IV (which relates to the control of entry and residence in Bermuda), or under Part VII (which relates to deportation).

Special category persons

59 (1) Any person who does not possess Bermudian status but who is for the time being a person falling, as respects his occupation, or future occupation, within any of the categories set out in the First Schedule is referred to in this Act as a special category person, and shall, while he remains a special category person, be entitled, as respects his engagement in gainful occupation in Bermuda, to those exemptions from the requirements as to the grant of permission by the Minister conferred by sections 60 to 68.

(2) Any special category person who is for the time being a person falling, as respects his occupation or future occupation, within any of the categories set out in Part I of the First Schedule is referred to in this Act as a special category person in Government employment.

General principle regarding regulation of engagement in gainful occupation

60 (1) Without prejudice to anything in sections 61 to 68, no person—

(a) other than a person who for the time being possesses Bermudian status; or

(b) other than a person who for the time being is a special category person; or

(c) other than a person who for the time being has spouse's employment rights; or

(cc) other than a permanent resident; or

(d) other than a person in respect of whom the requirements of subsection (6) are satisfied,

shall, while in Bermuda, engage in any gainful occupation without the specific permission (with or without the imposition of conditions or limitations) by or on behalf of the Minister.

(2) Notwithstanding anything in subsection (1), the entitlement conferred thereby upon a special category person to engage in gainful occupation without the specific permission of the Minister shall be restricted to an entitlement to engage only in such gainful occupation as is directly within the scope an ambit of the particular service, employment or calling by virtue of which he is for the time being a special category person.

(3) For the purposes of paragraph (c) of subsection (1), a person shall have spouse's employment rights—

(a) who is married to, or is the widow or widower of, a person possessing Bermudian status (a "Bermudian spouse"); and

(b) who is living as husband and wife with that person's Bermudian spouse, or, where that spouse died, so lived up to the time of the death; and

(c) whose Bermudian spouse is ordinarily resident in Bermuda or, where that spouse died, was so resident up to the time of the death.

(4) In relation to the requirements of ordinary residence and living as husband and wife mentioned in subsection (3)—

(a) where any question arises whether a person was ordinarily resident in Bermuda, or was living as husband and wife with anyone in Bermuda, that question shall be decided by the Minister;

(b) where a person has been ordinarily resident in Bermuda, or has been living as husband and wife with someone in Bermuda, and has then been absent from Bermuda for the purpose of that person's education outside Bermuda, the Minister may count that period of absence from Bermuda as a period of ordinary residence in Bermuda or, as the case may be, as a period during which that person was living as husband and wife with someone in Bermuda, if the Minister is satisfied that, but for that period of absence, the person in question would in fact have continued to be ordinarily resident in Bermuda, or, as the case may be, to live as husband and wife with someone in Bermuda.

(5) In subsection (3), the expressions "widow" and "widower", in relation to a deceased spouse, mean the person surviving the deceased spouse regardless whether the survivor remarries.

(6) The requirements referred to in paragraph (d) of subsection (1) are as follows—

(a) the person must be—

(i) a citizen of the United States of America; and

(ii) the spouse of an employee of the Government of the United States of America, being such an employee who—

(aa) is in, or arrives in, Bermuda solely for the purpose of discharging his official duties as such an employee; and

(bb) is either—

A a consular officer or a consular employee within the definitions of those expressions in paragraph 1 of Article 1 of the Vienna Convention as set forth in Schedule 1 to the Consular Relations Act 1971; or

B a person to whom the Diplomatic Privileges (Pre clearance Officials) Order 1980 applies;

(b) the person must be living with that person's spouse as husband and wife;

but, if any question arises whether those requirements are satisfied in relation to a person, that question shall be decided by the Minister.

[Section 60 amended by 1994:23 effective 13 July 1994; by 1995:36 effective 14 July 1995; subsection (1)(cc) inserted by 2002:16 s.7 effective 30 October 2002]

Grant etc. of permission to engage in gainful occupation

61 (1) This section shall have effect in connection with the application of any person to the Minister for the grant to that person of any permission under section 60.

(1A) Any such application shall be made on behalf of the applicant by his prospective employer who shall be responsible for ensuring that the application is complete and accurate in accordance with Guidelines issued by the Minister for the purposes of this section.

(2) Any such application shall, if so required by the Minister, be made on the prescribed forms.

(3) Without prejudice to anything in section 33 (which section relates to various powers of the Minister with respect to safeguards regarding permission to land or remain or reside in Bermuda) the Minister shall have the like powers with respect to applicants for the grant of permission to engage in gainful occupation; and section 130 (which section relates to the manner of dealing with deposits of sums of money made with the Chief Immigration Officer) shall apply and have effect accordingly.

(4) The Minister, in considering any application for the grant, extension or variation of permission to engage in gainful occupation, shall, subject to any general directions which the Cabinet may from time to time give in respect of the consideration of such applications, take particularly into account—

(a) the character of the applicant and, where relevant, of his or her spouse;

(b) the existing and likely economic situation of Bermuda;

(c) the availability of the services of persons already resident in Bermuda and local companies;

(d) the desirability of giving preference to the spouses of persons possessing Bermudian status;

(e) the protection of local interests; and

(f) generally, the requirements of the community as a whole,

and the Minister shall, in respect of any such application, consult with such public authorities as may, in the circumstances, be appropriate, and shall in particular, in the case of an application for permission to practise any profession in respect of which there is established any statutory body for regulating the matters dealt with by that profession, consult with that body.

(5) Any permission granted to a person by the Minister under section 60—

(a) may be limited in duration to a time specified in the permission; and

(b) may be granted subject to such conditions or limitations as the Minister thinks fit to impose and as are specified in the permission,

and any person who has been granted permission under section 60 shall not engage in any gainful occupation in such manner that there is a failure to comply with any such condition or limitation.

(6) The Minister may either withhold permission or grant permission subject to any duration, condition or limitation, without assigning any reason for that decision.

(6A) For the avoidance of doubt, it is hereby declared that a decision of the Minister to withhold permission or grant permission subject to any duration, condition or limitation, is not subject to appeal to the Immigration Appeal Tribunal.

(7) The Minister may extend, revoke, vary or modify the terms of any such permission.

(7A) Any such revocation or restriction of the terms of any such permission shall be effected by means of an order in writing served upon the person to whom it relates.

(7B) Before the Minister makes any order under subsection (7A) against any person, he shall cause a notification in writing to be served upon that person that he proposes to make such an order in his case at the expiration of fourteen days or such longer period as may be specified in the notification; and shall inform that person of the grounds upon which the Minister proposes to make the order and shall invite him within that period to submit in writing to the Minister any reason which he wishes to advance why such an order should not be made in his case.

(7C) The Minister shall not make any order under subsection (7A) until the expiration of the period specified in the respective notification served under subsection (7B) and the Minister shall, where reasons are submitted to him in accordance with subsection (7B), take those reasons into consideration when he decides whether or not the order should be made.

(7D) Any person aggrieved by any decision of the Minister to make an order under subsection (7A) against him may, subject to section 124, appeal to the Immigration Appeal Tribunal against such decision.

(7E) Where, in the case of a person who is employed by an employer pursuant to a work permit—

(a) the employment is terminated by the employer or employee or is regarded by the employer as having ended; and

(b) the employer informs the Minister of that fact in writing,

the work permit shall be deemed to have been revoked immediately upon receipt by the Minister of that writing; and subsections (7A) to (7D) shall not apply in such a case.

(8) The power of the Cabinet under subsection (4) to give general directions to the Minister includes the power to give him a direction that he shall approve, or that he shall reject, applications falling within a particular description specified in the direction; and the Minister shall comply with any such direction notwithstanding anything in subsection (4).

[Section 61 subsection (6A) inserted by 2013 : 26 s. 4 effective 6 August 2013; subsection (1A) inserted, subsection (5) amended, subsection (7) deleted and subsections (7)-(7E) inserted by 2013 : 35 s. 3 effective 1 April 2014]

Minister not to grant work permit to exceptionable person

61AA Notwithstanding anything in section 61, the Minister shall not grant a work permit to a person deemed under section 31(7) to be an exceptionable person.

[Section 61AA inserted by 2013 : 35 s. 4 effective 1 April 2014]

Cost of repatriation of employee and dependants

61AB (1) Subject to subsection (2), the most recent employer of a person ("former employee") whose work permit has expired, been revoked, or is deemed to have been revoked under section 61(7E), shall be responsible for any costs associated with repatriation of the former employee and his qualifying dependants, and for reimbursing the Chief Immigration Officer if he incurs any such costs.

(2) Subsection (1) does not apply if the employer and former employee have agreed in writing that the former employee will be responsible for any such repatriation costs, but it shall apply if in any case the former employee is unable to meet those costs.

(3) Any costs associated with repatriation of dependants who are not qualifying dependants shall be the responsibility of the former employee, who shall be responsible for notifying the Chief Immigration Officer of any changes to the dependants listed on the original work permit in accordance with Guidelines issued for the purposes of this section.

(4) "Qualifying dependants" means dependants who were listed on the former employee's original work permit application.

[Section 61AB inserted by 2013 : 35 s. 4 effective 1 April 2014]

Special employment rights for spouses of Bermudians

61A *[Repealed by 1994:23 effective 13 July 1994]*

Revocation of spouse's employment rights certificate

61B *[Repealed by 1994:23 effective 13 July 1994]*

Automatic invalidity of certificate in certain circumstances

61C *[Repealed by 1994:23 effective 13 July 1994]*

Employment privileges for spouses of Bermudians

61D *[Repealed by 1994:23 effective 13 July 1994]*

Duty to report certain events to Minister

61E *[Repealed by 1994:23 effective 13 July 1994]*

Special provisions respecting obligation of employers with respect to special category persons

62 (1) It shall be the duty of the employer of any special category person other than a special category person in Government employment, to make arrangements, if so

required by the Minister, for the removal from Bermuda of any such person upon the termination of his employment by such employer, or at any time thereafter—

(a) unless such person has subsequently been granted permission under this Part to engage in any other gainful occupation; or

(b) unless such person acquires Bermudian status.

(2) Notwithstanding anything in subsection (1), where an employee or person who has been employed as mentioned in subsection (1) is, under any provision of this Act, repatriated, removed or deported from Bermuda, the employer shall, unless such person has subsequently been granted permission under this Part to engage in other gainful occupation, be financially responsible for any public charges incurred in respect of such repatriation, removal or deportation.

Special provisions with respect to carrying on business by travelling salesmen

63 (1) Without prejudice to any other provision of this Part this section shall have effect in relation to the engagement by travelling salesmen in gainful occupation in Bermuda.

(2) The fees set out in the Regulations made under the Government Fees Act 1965 shall be payable to the Minister in respect of any permission granted by the Minister, under section 60, to a travelling salesman to engage in local business in Bermuda.

(3) Any person who, knowing or having reasonable cause to believe that a travelling salesman is not permitted to engage in local business in Bermuda—

(a) buys from, or agrees or attempts to buy from, that travelling salesman any article in respect of which the travelling salesman takes or receives or solicits orders in Bermuda; or

(b) places or agrees or attempts to place any order with the travelling salesman in respect of any such article as aforesaid,

commits an offence against this Act.

(4) It shall be the duty of a travelling salesman to produce the permission granted to him by the Minister under section 60 if so requested by any person proposing to deal with him with a view to entering into any of the transactions mentioned in subsection (3).

(5) In this section "travelling salesman" means a person other than a person who possesses Bermudian status who on behalf of any person or corporate body outside Bermuda takes or receives or solicits orders for anything capable of being sold or disposed of for valuable consideration.

Offence of engaging in gainful occupation in contravention of PartV

64 Any person who engages in any gainful occupation in contravention of any provision of sections 57 to 63 commits an offence against this Act.

Offence of employing person in contravention of Part V

65 Any person who employs another person in such circumstances that the employment of such latter person is in contravention of any provision of sections 57 to 64 commits an offence against this Act:

Provided that it shall be a good defence for a person charged with an offence under this section to prove that he had made reasonable enquiries to determine whether such employment was in contravention of any earlier provision of this Part, and had no reasonable grounds for believing, and did not in fact believe, that such employment was in contravention of such provision.

[This proviso is prospectively repealed but repeal not yet in force: see 1972:54 section 3]

Carrying of identity cards, etc

66 (1) Every person who—

(a) does not possess Bermudian status; or

(b) is not a special category person,

who engages in gainful occupation shall at all times during his ordinary hours of work or when engaged in such occupation carry upon him a certificate of identification in the form prescribed by regulation made under section 68.

(2) Any person required to carry a certificate of identification under subsection (1) shall produce the certificate when so required by a member of the Bermuda Police Service or by an immigration officer.

(3) Any person who—

(a) fails to carry a certificate of identification in contravention of subsection (1); or

(b) fails to produce a certificate in contravention of subsection (2), or who produces a certificate which is not his,

commits an offence against this Act.

(4) In any prosecution brought for a contravention of this section a person shall be deemed not to possess Bermudian status until and unless the contrary is established.

[Section 66 amended by 1997:37 effective 6 May 1999]

Power to enter premises

67 (1) Any immigration officer and any member of the Bermuda Police Service may enter any premises upon which such officer or member may have reason to believe any person may be engaged in gainful occupation, if need be, by force, for the purpose of ascertaining whether there is, or has been, any contravention of this Part in relation to such person or in relation to any records required to be kept by regulation made under section 68.

(2) The power of entry conferred by this section shall be exercised only during normal working hours or at such other times as it may reasonably be supposed that persons engaged in gainful occupation are upon the premises.

(3) An immigration officer or member of the Bermuda Police Service acting under this section may take with him such other persons as may be reasonably necessary in the circumstances.

(4) If, upon effecting an entry upon any premises under this section, it appears that there has been a contravention of any provision of this Act or any other statutory provision the immigration officer or member of the Bermuda Police Service effecting entry may exercise such powers as may be conferred upon him by this Act or such statutory provision, whether to effect an arrest or otherwise howsoever.

[Section 67 amended by 1997:37 effective 6 May 1999]

Regulations

68 (1) The Minister may make regulations for any purpose in relation to the carrying into effect of this Part and without derogation from the generality of the foregoing such regulations may—

(a) prescribe the form of certificate of identification for the purposes of section 66;

(b) prescribe the particulars to be furnished to the Minister by persons applying for the issue of a permit or certificate under this Part, including the submission of photographs of the applicant;

(c) make provision with respect to certificates of physical fitness required to be produced to the Minister;

(d) prescribe the records to be kept by employers of persons who do not have Bermudian status including the form of such records, the nature of the entries therein, the time when such entries arc to be made, the inspection of such records and the place where such records are to be kept and the returns to be rendered in respect thereof;

(e) prescribe the nature of the evidence which on production to an employer under section 65 will satisfy the requirements of those provisions.

(2) *[spent]*

Restriction on carrying on business by non-resident corporate bodies

69 *[Repealed by 1981:59]*

Determination of appropriate fee

70 *[Repealed by 1981:59]*

Transitional provisions for purposes of Part V

71 *[omitted]*

Power to impose civil penalties for work permit violations

71A (1) The Chief Immigration Officer may impose a civil penalty on a person who, in contravention of this Part—

(a) engages in gainful occupation without a work permit;

(b) engages in gainful occupation which is outside the scope of his work permit;

(c) employs a person to engage in gainful occupation when that person does not have a work permit; or

(d) employs a person to engage in gainful occupation which is outside the scope of that person's work permit.

(2) The Chief Immigration Officer may also impose a civil penalty on a person if the person has been given—

(a) written notice of an investigation for a suspected contravention of this Part; and

(b) a request to submit specified documents to the Chief Immigration Officer within a 24 hour period,

but fails without reasonable excuse to do so.

(3) The amount of a civil penalty imposed under this section shall be—

(a) $5000, for a person's first violation; or

(b) $10,000, for a person's second or subsequent violation within a period of seven years beginning with the date of the first violation.

(4) Where a civil penalty is imposed on a person under this section for a contravention of this Part, the person shall not also be prosecuted for an offence under section 64, 65, 133 or 134 relating to that same contravention.

[Section 71A inserted by 2013 : 35 s. 5 effective 1 April 2014]

Procedure for imposing civil penalties

71B (1) When the Chief Immigration Officer proposes to impose a civil penalty on a person, he must give the person a notice (a "warning notice") of—

(a) the amount of the penalty;

(b) the reasons for imposing the penalty; and

(c) the right to make representations within seven days of the date of the warning notice.

(2) After considering any representations, the Chief Immigration Officer must decide, within seven days of the end of the period specified in subsection (1)(c) whether to impose a penalty.

(3) The Chief Immigration Officer must give the person a notice (a "decision notice") of—

(a) his decision not to impose a penalty; or

(b) his decision to impose a penalty and—

(i) the amount of the penalty;

(ii) the reasons for his decision;

(iii) the right to appeal to the Supreme Court within 21 days of the date of the decision notice.

(4) A person upon whom a penalty is imposed by decision notice who does not appeal under subsection (3)(b)(iii), shall within 21 days either—

(a) pay the penalty; or

(b) pay a portion of the penalty and apply to the Chief Immigration Officer for a payment schedule for the remainder.

(5) The Chief Immigration Officer—

(a) shall pay any civil penalties into the Consolidated Fund; and

(b) may recover any unpaid civil penalty as a debt owing to him in any court of competent jurisdiction.

[Section 71B inserted by 2013 : 35 s. 5 effective 1 April 2014]

Appeals to Supreme Court

71C (1) A person may appeal to the Supreme Court against a decision of the Chief Immigration Officer to impose a civil penalty.

(2) An appeal must be brought within the period specified in the decision notice.

(3) A decision appealed against under this section shall not have effect—

(a) until the end of the period within which the appeal can be brought; and

(b) if such an appeal is brought, until it is determined or withdrawn.

[Section 71C inserted by 2013 : 35 s. 5 effective 1 April 2014]

PART VI

PROTECTING LAND IN BERMUDA FOR BERMUDIANS

[This Part VI (sections 72 to 102O) was inserted by 2007:16 s.5 effective 22 June 2007. The repealed Part VI still applies in certain cases under the transitional provisions in Part II of 2007:16 and can be found in the document titled "Bermuda Immigration and Protection Act 1956 – Part VI Transitional Provisions".; Part VI repealed and replaced by 2007:16 s.5 effective 22 June 2007, subject to transitional provisions in Part II of that Act]

Interpretation

Definitions

72 (1) In this Part, unless the context otherwise requires—

"annual rental value" has the meaning given that term in section 1 of the Land Valuation and Tax Act 1967;

"benefit" means any benefit whatsoever, including an indirect benefit, an eventual benefit and a potential benefit;

"condominium" means an agreement for the sharing of land whereby the land is divided into individual parts and common parts so that—

(a) the individual parts are capable of being enjoyed separately; and

(b) persons having rights in individual parts can enjoy the common parts in common with other persons having rights in other individual parts;

"condominium unit" means one of a number of residential valuation units capable of being privately held or acquired within one or more of the individual parts of a condominium development;

"deferral certificate" means a certificate issued under section 86;

"exempted company" has the meaning given in section 127 of the Companies Act 1981;

"financial assistance" means—

(a) all payments, loans, transfers of property and gifts made to a trustee or other person, group of persons or entity;

(b) all payments, loans, transfers of property, gifts and guarantees made to a third person (including a trustee or other person, group of persons or entity) on behalf of, or for the benefit of, a person or group of persons; or

(c) any other direct or indirect provision of value to or for the benefit of another person, group of persons or entity where the provider obtains an equitable interest in the property in question;

"hotel residence" means a condominium unit or a residential unit at a hotel that—

(a) is on the grounds or premises of a hotel, as defined in section 1 of the Hotels (Licensing and Control) Act 1969; and

(b) has an individual land valuation assessment number;

(c) *[repealed by 2015 : 22]*

"land" includes land covered by water and any building erected on land and any estate, interest, right or easement in, over or under any land or building;

"land trust" means a trust of land in Bermuda, within the meaning of subsection (2);

"licence" means a document signed, dated and issued by the Minister under section 96;

"licensed bank or deposit company" means an institution, as defined in the Banks and Deposit Companies Act 1999, that is licensed under that Act as a bank or deposit company;

"Minister" means the Minister responsible for land licences;

"permanent resident"*[Repealed by 2020 : 16 s. 2]*

"residential valuation unit" means a valuation unit, as defined in the Land Valuation and Tax Act 1967, that is in the valuation list in force under that Act and is taxed as a residential unit;

"restricted person" means—

(a) in the case of an individual, a person who does not possess Bermudian status;

(b) in the case of a corporation, an exempted company as defined in the Companies Act 1981 or a corporation incorporated outside Bermuda;

(c) in the case of a partnership—

(i) an overseas partnership, within the meaning of the Overseas Partnerships Act 1995;

(ii) an exempted partnership, within the meaning of the Exempted Partnerships Act 1992; or

(iii) any other partnership if one or more of the partners is a person described in paragraph (a), (b) or (d) or a partnership described in subparagraph (i) or (ii); or

(d) in any other case, any entity or group of persons comprised of, or owned or controlled by, persons who are restricted persons under paragraph (a), (b) or (c);

"scheme" includes—

(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied, whether or not in writing and whether or not enforceable by legal proceedings; and

(b) any plan, proposal, action, course of action or course of conduct; and

"tourist accommodation" means accommodation of one of the following types that is located on the grounds or premises of a hotel, as defined in section 1 of the Hotels (Licensing and Control) Act 1969, which is to be made available for occupancy by paying transient guests as part of the hotel inventory for at least six months each year or, in the case of an exempted company (as provided in regulation 3(2)(a) of the Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010), for use by a tenant who occupies the accommodation under a rental agreement entered into pursuant to a permit issued by the Minister—

(a) a traditional hotel room or suite that does not have an individual land valuation assessment number;

(b) a condo-hotel room or suite that does not have an individual land valuation assessment number;

(c) a fractionally owned unit that does not have an individual land valuation assessment number;

(d) condominium unit or a residential unit that—

(i) is on the grounds or premises of a hotel, as defined in section 1 of the Hotels (Licensing and Control) Act 1969; and

(ii) has an individual land valuation assessment number;

"trustee" includes any person who owns land in Bermuda, against whom another person (in this Act a beneficiary) or a person directly or indirectly deriving rights from a beneficiary may enforce rights at law or in equity, however they arise, such that the person in ownership is not able to dispose of the land and use the proceeds of disposition as a beneficial owner absolutely entitled to unencumbered property.

(2) A land trust exists where land in Bermuda is held directly or indirectly by a trustee and, for greater certainty, every reference to a trust in this Part shall be read as a reference to a land trust.

[Section 72 repealed and replaced by 2007:16 s.5 effective 22 June 2007; amended by 2010 : 1 s. 3 effective 25 February 2010; subsection (1) amended by 2010 : 40 s. 2 effective 27 August 2010; subsection (1) "financial assistance", "hotel residence" and "tourist accommodation" amended and "permanent resident" inserted by 2015 : 22 s. 2 and 3 effective 8 June 2015; subsection (1) "tourist accommodation" amended by 2017 : 7 s. 2 effective 20 February 2017; Section 72 subsection (1) definition "permanent resident" repealed by 2020 : 16 s. 2 effective 1 September 2020; Section 72 subsection (1) definition "Minister" inserted by 2020 : 51 s. 2 effective 21 December 2020]

General

Purpose of Part VI

73 The purpose of this Part is to protect land in Bermuda for ownership by individuals who possess Bermudian status by—

(a) requiring restricted persons to have licences to hold or acquire land in Bermuda and preventing them from appropriating it;

(b) requiring trustees to have licences to hold or acquire land in Bermuda for the benefit of restricted persons and preventing them from appropriating it; and

(c) preventing corporations from acquiring or holding land in Bermuda, unless they do so in accordance with this Part.

[Section 73 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Non-application of this Part

74 This Part does not apply to the following transactions, unless the transaction is part of a scheme whereby a restricted person obtains a benefit contrary to the purpose of this Part—

(a) holding or acquiring an easement in, over or under any land; and

(b) a reconveyance or release of land upon satisfaction of a mortgage or other charge on the land.

[Section 74 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Approved residential schemes

74A (1) This Part does not apply in relation to the holding or acquisition of land consisting only of one or more residential valuation units in an approved residential scheme by a restricted person.

(2) In this section, "approved residential scheme" means an approved EEZ residential scheme or an approved Hamilton residential scheme as defined in section 1 of the Economic Development Act 1968.

[Section 74A inserted by 2019 : 38 s. 7 effective 1 November 2019; Section 74A subsection (2) amended by 2024 : 6 s. 8 effective 1 April 2024]

Prohibitions on Holding, Acquiring or Appropriating Land

Prohibition on corporate land-holding or acquisition

75 (1) No corporation shall hold or acquire land in Bermuda without obtaining Ministerial consent, where required to do so under the Companies Act 1981 or any other Act.

(2) For greater certainty, Ministerial consent under the Companies Act 1981 or another Act to the holding or acquisition of land by a corporation does not exempt the

corporation from complying with the provisions of this Part, the Regulations or any licence issued to it.

[Section 75 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

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.

[Section 76 repealed and replaced by 2007:16 s.5 effective 22 June 2007; repealed and replaced by 2015 : 22 s. 4 effective 8 June 2015]

Trustee holding or acquiring land without a licence

77 No trustee shall hold or acquire land in Bermuda in trust for a person that the trustee knows or has reasonable grounds to suspect is a restricted person (other than the spouse of a person who possesses Bermudian status), unless the trustee has a licence or a deferral certificate.

[Section 77 repealed and replaced by 2007:16 s.5 effective 22 June 2007; amended by 2015 : 22 s. 5 effective 8 June 2015]

Appropriating land

78 (1) No restricted person shall appropriate land in Bermuda with the intention of occupying it, or of using or developing the land for profit at any time whether for his own benefit or for the benefit of another person.

(2) No trustee shall appropriate land in Bermuda for the benefit of a restricted person.

(2A) No trustee shall appropriate land in Bermuda for a beneficiary who possesses Bermudian status, at the direction of a restricted person, unless—

(a) the restricted person receives no benefit from the appropriation; or

(b) the beneficiary is the child or grandchild of the restricted person and the trustee obtains the Minister's approval in writing before appropriating the land.

(3) For the purposes of this section, a person appropriates land by assuming at any time any of the rights of an owner of the land, whether at law or in equity.

(4) A restricted person is deemed to have the intention referred to in subsection (1) in the following circumstances—

(a) the restricted person provides or procures or arranges for another person to receive financial assistance for the acquisition of the land, whether or not pursuant to any scheme; or

(b) the land is held by a person who, by virtue of a scheme made for the benefit of the restricted person, would be regarded by a reasonable person in possession of all the facts as a person acting for the benefit of

the restricted person and not as an absolute owner beneficially entitled to the land.

(5) Subsection (1) does not apply in the case of a restricted person who provides financial assistance to his child or grandchild for the acquisition of the land, if the restricted person obtained the Minister's approval in writing before providing the assistance.

(6) This section does not apply to a restricted person or a trustee who holds a deferral certificate or a licence in respect of the land.

(7) In this section "child" includes step-child and adopted child.

[Section 78 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Other participants

79 (1) No person shall be knowingly concerned in the holding, acquisition or appropriation of land by a restricted person or a trustee contrary to section 76, 77 or 78.

(2) For the purposes of subsection (1), a person is concerned in holding, acquiring or appropriating land if the person does anything to facilitate it or to bring it about, including providing advice in regard to the manner in which the land may be held, acquired or appropriated contrary to the purpose of this Part, conveying the land or holding the land as an agent or nominee or otherwise for the benefit of the restricted person.

[Section 79 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Taking a mortgage or charge on land

80 (1) No restricted person or trustee of a trust which is holding or acquiring land for the benefit of a restricted person, and no agent or nominee of a restricted person or of such a trustee shall, without the prior approval of the Minister, accept or take, directly or indirectly, any mortgage or charge on land in Bermuda, whether legal or equitable.

(2) This section does not apply to a licensed bank or deposit company or to a non-resident insurance undertaking, as defined in section 1 of the Non-Resident Insurance Undertakings Act 1967.

[Section 80 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Scheme to defeat purpose of this Part

81 (1) No person shall participate in a scheme that the person knows or has reasonable grounds to suspect will enable a restricted person or a trustee, directly or indirectly—

(a) to hold or acquire land in Bermuda contrary to the purpose of this Part; or

(b) to appropriate land in Bermuda contrary to section 78.

(2) In determining whether there was a scheme referred to in subsection (1), the court shall have regard to—

(a) the manner in which the scheme was entered into or carried out;

(b) the form and substance of the scheme, including any powers or rights of a restricted person in regard to it;

(c) the result, in relation to the operation of this Part, that would be achieved by the scheme; and

(d) the benefit that has accrued, will accrue or may reasonably be expected to accrue to the restricted person or to the trustee of a trust that is holding or acquiring land for the benefit of a restricted person.

[Section 81 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

No offence under sections 76, 77 and 78

82 (1) Subject to subsection (2), no person contravenes section 76, 77 or 78 by reason only that the person—

(a) holds or acquires land as a mortgagee or holds or acquires a charge on land, if the person has obtained the approval of the Minister under section 80;

(b) is a bona fide temporary occupant or a bona fide tenant who leases land for a term that does not exceed five years, where there is no scheme or option whereby he may extend the term beyond a total of five years;

(ba) is an individual who leases a licensed hotel residence for a term not exceeding 10 years or, with the permission of the Minister, for a term greater than 10 years;

(bb) holds or acquires land in Bermuda, so long as the person is the spouse of a person who possesses Bermudian status;

(c) leases land under any of the following—

(i) the Companies Act 1981, section 129(1)(a)(i) or (ii) or 143(a)(i) or (ii);

(ii) the Exempted Partnerships Act 1992, section 19(1)(a);

(iii) the Overseas Partnerships Act 1995, section 11(1)(a);

(iv) the Economic Development Act 1968, section 6; or

(v) an order made under section 4 of the Hotels Concession Act 2000; or

(vi) an order made under section 5 of the Tourism Investment Act 2017; or

(d) is a corporation that is not a restricted person that holds or acquires land for the benefit of its shareholders.

(2) Subsection (1) does not apply to—

(a) a person who holds or acquires land by a judgment of foreclosure or as a mortgagee in possession; or

(b) a transaction that is part of a scheme referred to in section 81(1).

(3) *[Repealed by 2013 : 26 s. 5.]*

[Section 82 repealed and replaced by 2007:16 s.5 effective 22 June 2007; subsection (1) paragraph (ba) inserted by 2010 : 40 s. 3 effective 27 August 2010; subsection (1) paragraph (bb) inserted by 2012 : 31 s. 2 effective 14 September 2012; subsection (3) inserted by 2012 : 31 s. 2 effective 14 September 2012; subsection (1)(bb) repealed and replaced and subsection (3) repealed by 2013 : 26 s. 5 effective 6 August 2013; subsection (1)(c) amended by 2015 : 22 s. 6 effective 8 June 2015; subsection (1)(c)(vi) inserted by 2017 : 36 s. 14 & sch. 3 effective 10 November 2017]

Consent of the Director of Public Prosecutions

83 No criminal proceedings shall be instituted in respect of an offence under sections 75(1) or 76 to 81 without the written consent of the Director of Public Prosecutions.

[Section 83 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Licences

Applications for licences

84 (1) A restricted person or a trustee to whom section 76 or 77 applies who intends to hold or acquire land in Bermuda shall apply to the Minister for a licence.

(2) The application shall be accompanied by—

(a) the application fee prescribed in the Government Fees Regulations 1976;

(b) the prescribed information, documents and attestations; and

(c) such other information or documents as the Minister may require for the purpose of considering the application.

(3) This section does not apply to a restricted person or a trustee who holds, acquires or leases land as described in section 82(1).

[Section 84 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Licensing requirements deferred

85 (1) The requirement to obtain a licence under this Part is deferred for a period of three years in the following cases—

(a) where a restricted person acquires land by devise or inheritance, the deferral commencing on the date that the land was acquired;

(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;

(b) where a restricted person acquires the land by a judgment of foreclosure or as a mortgagee in possession, the deferral commencing on the date the land was acquired;

(c) where a person who holds land subsequently becomes a restricted person, or where a trustee holds a land trust for a person who subsequently becomes a restricted person, the deferral commencing on the date that the person becomes a restricted person;

(d) where a person acquires land without knowledge that he is a restricted person but later obtains such knowledge (or might reasonably be expected to have done so), the deferral commencing on the date that the person first obtains such knowledge (or might reasonably be expected to have done so);

(e) where a restricted person acquires land without knowledge but later obtains knowledge that he has acquired the land (or might reasonably be expected to have done so), the deferral commencing on the date that the person first obtains such knowledge (or might reasonably be expected to have done so);

(f) where a trustee holds or acquires land in trust for a beneficiary whom he does not know (and has no reasonable grounds to suspect) is a restricted person but who is a restricted person, the deferral commencing on the date that the trustee first obtains knowledge that the beneficiary is a restricted person (or might reasonably be expected to have done so); or

(g) where a trustee holds, under licence, land acquired by devise or inheritance in a land trust for a restricted person who is a minor, the deferral commencing on the date that the trustee's licence expires pursuant to section 94(2)(a).

(2) The requirement to obtain a licence under this Part is deferred for a period of one year in the following cases—

(a) *[repealed]*

(b) where the licence of a person who holds land under a licence issued under this Part is revoked, the deferral commencing on the date of revocation;

(c) where a partnership becomes a restricted person, the deferral commencing on the date on which the partnership becomes a restricted person; or

(d) where an entity or group of persons becomes a restricted person under paragraph (d) of the definition of "restricted person", the deferral commencing on the date on which the entity or group becomes a restricted person.

(3) The Minister may, in writing, extend the deferral period referred to in subsection (1) or (2) for one additional period not longer than the original deferral period.

(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.

[Section 85 repealed and replaced by 2007:16 s.5 effective 22 June 2007; subsections (1) and (2) amended and subsection (4) inserted by 2015 : 22 s. 7 effective 8 June 2015]

Deferral certificate

86 (1) Any person who believes that he is entitled to a deferral under section 85(1) or (2) 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 believes that he is entitled to a deferral.

(2) The Minister shall issue a deferral certificate to every person whom he determines is entitled to a deferral under section section 85(1) or (2).

(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.

(3) No person who has made an application under subsection (1) or (2A) shall be prosecuted for an offence under section 76 or 77 before the application has been determined by the Minister.

[Section 86 repealed and replaced by 2007:16 s.5 effective 22 June 2007; subsections (1), (2) and (3) amended and subsection (2A) inserted by 2015 : 22 s. 7 effective 8 June 2015]

Notice of applications for licences

87 *[Repealed by 2020 : 51 s. 3]*

[Section 87 repealed by 2020 : 51 s. 3 effective 21 December 2020]

Ministerial review of applications for licences

88 Subject to sections 89 to 95, the Minister may in his discretion approve or refuse to approve an application for a licence.

[Section 88 repealed and replaced by 2007:16 s. 5 effective 22 June 2007; Section 88 amended by 2020 : 51 s. 3 effective 21 December 2020]

Territorial restrictions

89 (1) Subject to subsections (3) and (4), the Minister may approve an application for a licence only if—

(a) the area of the land to which the application relates and the area of all licensed land in Bermuda total no more than 2500 acres; and

(b) *[repealed]*

(2) For the purposes of subsection (1), the calculation of the areas of land shall be determined in accordance with the regulations.

(3) Subsection (1) does not apply in respect of—

(a) land that is licensed land at the time of the application;

(b) the first disposition of a condominium unit by the developer of a condominium development; or

(c) the acquisition of an interest in tourist accommodation or a hotel residence.

(4) Subsection (1) does not apply to an application for a licence made by—

(a) the spouse of the owner of the land described in the application, if the owner possesses Bermudian status or holds the land under a licence;

(aa) the owner of the land described in the application, if the owner holds the land in trust for his spouse;

(b) the child of a person who possesses Bermudian status and who owns the land described in the application;

(c) the parent of a person who possesses Bermudian status and who owns the land described in the application; or

(d) a person to whom the Minister could have granted a licence under paragraph (a), (b) or (c) within the three year period ending with the date of the application.

(5) In this section, "licensed land" means land in respect of which a licence has been issued under this Part and includes land in respect of which an application for a licence has been approved but for which no licence has yet been issued.

[Section 89 repealed and replaced by 2007:16 s.5 effective 22 June 2007; subsection (3) amended by 2010 : 1 s. 4 effective 25 February 2010; subsection (3) amended by 2010 : 40 s. 4 effective 27 August 2010; subsection (1) paragraphs (a) and (b) amended by 2012 : 31 s. 3 effective 14 September 2012; subsection (1)(b) repealed and subsection (3)(b) amended by 2015 : 22 s. 8 and 9 effective 8 June 2015]

Restriction on acquiring undeveloped land

90 The Minister may only approve an application for a licence to hold or acquire undeveloped land if it is made by or in respect of a restricted person who is an individual described in section 89(4)(a) to (d).

[Section 90 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Restriction on acquiring residential valuation units

91 (1) The Minister may not approve an application for a licence to hold or acquire a residential valuation unit if that unit has an annual rental value that is less than the prescribed minimum.

(2) Notwithstanding subsection (1), the Minister may approve an application for a licence made by or in respect of a restricted person to hold or acquire a residential valuation unit that has an annual rental value below the prescribed minimum applicable to that person only if the application is made by or in respect of an individual described in section 89(4)(a) to (d).

(3) The Minister may only approve an application for a licence to hold or acquire two or more residential valuation units on the same lot if it is made by or in respect of a restricted person who—

(a) is an individual described in section 89(4)(a) to (c),

(b) acquires the land by devise or inheritance from a spouse who possessed Bermudian status, or

(c) jointly owns the land with a spouse, parent or child who possesses Bermudian status,

(4) The Minister may only approve an application referred to in subsection (3) that is made by, or in respect of, a restricted person who does not meet the requirements in subsection (3)(a) to (c) if—

(a) the restricted person is an individual;

(b) one of the units has an annual rental value above the prescribed minimum; and

(c) the land is already licensed.

[Section 91 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

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).

(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.

[Section 92 repealed and replaced by 2007:16 s.5 effective 22 June 2007; subsection (1) amended by 2010 : 40 s. 5 effective 27 August 2010; repealed and replaced by 2015 : 22 s. 9 effective 8 June 2015]

Restriction on acquiring tourist accommodation or a hotel residence

92A (1) The Minister may approve an application for a licence to hold or acquire an interest in tourist accommodation or a hotel residence only if—

(a) the application is made by or in respect of a restricted person that is an individual or an exempted company; and

(b) *[repealed]*

(2) The Minister may not approve an application by an exempted company to hold or acquire an interest in more than four properties that constitute tourist accommodation or hotel residences.

[Section 92A inserted by 2010 : 1 s. 5 effective 25 February 2010; amended by 2010 : 40 s. 6 effective 27 August 2010; subsection (1)(b) repealed by 2017 : 7 s. 3 effective 20 February 2017]

Restriction on acquiring subdivided land

93 The Minister may not approve an application for a licence to hold or acquire a lot of land that was previously held under licence if the land has been subdivided and transferred to an individual who possesses Bermudian status pursuant to a variation approved by the Minister that meets the conditions set out in section 100.

[Section 93 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Restriction on acquiring land by devise or inheritance

94 (1) The Minister may approve an application for a licence to hold or acquire land acquired by devise or inheritance only if the restricted person applying for the licence, or in respect of whom the application is made, is an individual.

(2) Notwithstanding subsection (1), the Minister may approve an application by a trustee for a licence to hold or acquire land referred to in that subsection in a land trust of which the restricted person is the beneficiary if—

(a) the restricted person is a minor to whom the Minister could have issued a licence, had he been over the age of majority on the date of the application, and the licence expires on his reaching the age of majority, or such age, not greater than 25 years, as the Minister determines; or

(b) the restricted person is incapable of administering the land due to an infirmity and is a person to whom the Minister could have issued a licence at the time of the application, but for the infirmity.

[Section 94 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Land trust for infirm person

95 The Minister may approve an application by a trustee for a licence to hold or acquire the land as bare trustee for a restricted person who is incapable of administering the land due to an infirmity, other than an application referred to in section 94(2), only if—

(a) the land was held by the restricted person under licence before the infirmity; and

(b) the licence issued to the trustee expires on the restricted person regaining his capacity to administer the land, or on his death, whichever occurs first.

[Section 95 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Ministerial approval of applications

96 (1) If the Minister approves an application, he shall sign and date the licence and notify the applicant of the approval and the terms and conditions to which the licence is subject.

(2) The Minister shall not issue the licence to the applicant until the applicant pays the prescribed land-holding charge.

(3) The Minister's approval of an application for a licence shall lapse if the land-holding charge is not paid within six months after the application was approved, or within such additional period as the Minister may approve in writing.

[Section 96 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Time limit for acquiring land

97 (1) A licence shall lapse if the land to which the licence relates is not acquired on or before the day that is six months after the application for the licence was approved, in a case where a transfer of legal title to a restricted person is required.

(2) The Minister may, in writing, extend the time period referred to in subsection (1) for one additional period of six months.

(3) A person who holds a licence that has lapsed under this section or any other provision of this Part shall return the licence to the Director of Economic Development.

(4) Nothing in subsection (1) bars the making of a new application.

[Section 97 repealed and replaced by 2007:16 s.5 effective 22 June 2007; subsection (1) amended by 2015 : 22 s. 10 effective 8 June 2015; Section 97 subsection (3) amended by 2020 : 51 s. 2 effective 21 December 2020]

Licence conditions

98 (1) Subject to subsection (1A), the following standard conditions apply to all licences issued under this Part—

(a) the land may only be used for the purpose for which it is held or acquired, as set out in the application for the licence;

(b) the land may not be developed or altered so as to add a unit that is capable of being assessed as a residential valuation unit;

(c) the land may only be rented out or used for profit in accordance with a permit issued by the Minister;

(d) the land may not be subdivided and the boundaries of the land may not be changed; and

(e) within 12 months of the date of the approval of the application or such longer period not exceeding three years as the Minister may allow, all other land in Bermuda, except permitted land, held on the date of the issue of the licence by or for the benefit of the restricted person, including land held by a trustee in trust for that person's benefit, shall be disposed of to a third party.

(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.

(1A) The condition in subsection (1)(e) does not apply to a licence issued to permit an exempted company to acquire or hold tourist accommodation or a hotel residence.

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

(2) The Minister may impose such other conditions as he thinks fit on a licence issued under this Part by noting them on the licence.

[Section 98 repealed and replaced by 2007:16 s.5 effective 22 June 2007; amended by 2010 : 40 s. 7 effective 27 August 2010; subsection (1) amended and subsections (1ZA) and (1B) inserted by 2015 : 22 s. 11 effective 8 June 2015]

Variance of licence conditions

99 (1) On application by a licensee, the Minister may vary any condition of the licence, including a standard condition referred to in section 98(1), by noting the variation on the licence.

(2) If land is held under a licence but, as a result of any change, a licence is no longer required, the licence lapses and the conditions on the licence cease to have effect.

[Section 99 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Variation of licence condition – subdivision of land

100 Notwithstanding section 99(1), the Minister may not approve an application to vary a condition on a licence that restrains the licensee from subdividing the land unless—

(a) the land has more than one residential valuation unit on it;

(b) the subdivision results in the restricted person retaining at least one lot with a residential valuation unit on it with an annual rental value that is above the minimum prescribed for a restricted person, other than a permanent resident; and

(c) each of the other lots created by the subdivision is transferred to an individual who possesses Bermudian status.

[Section 100 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Revocation of licences

101 The Minister may revoke a licence if—

(a) the licensee contravenes a provision of this Part or the regulations or a condition of the licence;

(b) the licensee submits false information or documentation or makes a false declaration in an application for the licence, or in a registration under this Act; or

(c) the licensee is convicted of a criminal offence.

[Section 101 repealed and replaced by 2007:16 s.5 effective 22 June 2007]

Registration of Land

Registration required

102 (1) Every person who holds or acquires land under a licence shall, within three months after the later of the acquisition of the land or the issue of the licence, deposit in the Office of the Land Title Registrar for recording and registration—

(a) a copy of the licence;

(b) a memorandum in writing setting out the description and area of the land and the person's estate or interest in it;

(c) a copy of the lot plan together with the grid reference of the approximate centre of the lot, using the Bermuda National Grid 2000; and

(d) copies of any other documents that are prescribed.

(2) If a person who does not require a licence acquires land held under a licence, the person shall, within three months after the date of acquisition, deposit in the Office of the Land Title Registrar for registration and recording copies of any prescribed documents evidencing the person's interest or estate in the land.

(3) If land is held under a licence but as a result of any change a licence is no longer required, the person who holds the land shall notify the Land Title Registrar in writing of the change, within three months after it occurs.

(4) The Minister may, in writing, extend a time period referred to in this section.

(5) A person required to register under this section shall pay such fee as may be prescribed under the Government Fees Regulations 1976.

[Section 102 repealed and replaced by 2007:16 s.5 effective 22 June 2007; subsections (1) - (3) amended by 2017 : 9 s. 11 effective 20 February 2017]

Register to be kept

102A The Land Title Registrar shall maintain a register, by parish, of land held or acquired under licence in such form, and containing such particulars, as are prescribed.

[Section 102A inserted by 2007:16 s.5 effective 22 June 2007; amended by 2017 : 9 s. 11 effective 20 February 2017]

Reports to Minister

Reports from banks and deposit companies and others

102B (1) A licensed bank or deposit company shall make a written report to the Minister respecting any transaction in which it participates, if the bank or company knows, or has reasonable grounds to suspect, that a licence required under this Part in relation to the transaction, or an aspect of the transaction, has not been obtained.

(2) Any person who knows, or has reasonable grounds to suspect, that a transaction or an aspect of a transaction in which the person participates is part of a scheme referred to in section 81(1) shall make a written report to the Minister.

(3) The report shall include a description of the land, the names and addresses of the parties to the transaction or scheme and the particulars of the knowledge, or the grounds for the suspicion, referred to in subsection (1).

(4) Notwithstanding any duty of confidentiality, fiduciary duty or duty arising under any law or contract, no civil proceedings may be commenced against a bank, company or person referred to in subsection (1) or (2) for giving information to the Minister, even if the information is not required to be given under that subsection and even if the Minister does not request it, if—

(a) the bank, company or person believes that the information may relate to a transaction or scheme described in that subsection; and

(b) the information is given in good faith.

[Section 102B inserted by 2007:16 s.5 effective 22 June 2007]

Regulations

Regulations subject to the affirmative resolution procedure

102C (1) The Minister may make such regulations as are necessary to give effect to this Part and its purpose, including regulations—

(a) governing land-holding charges payable under section 96(2), and in particular—

(i) providing for the charge to be a percentage of the value of the land in respect of land acquired by purchase;

(ii) providing for different charges in different circumstances and different charges for different classes of restricted persons; and

(iii) providing for a reduction, deferred payment or refund of land-holding charges in particular cases;

(b) *[Repealed by 2010 : 1 s. 6]*

(ba) respecting tourist accommodation and hotel residences, including—

(i) the criteria for the hotel development where they are located;

(ii) the persons who may acquire or hold them;

(iii) interests that may be conveyed and the requirements for approval of conveyances;

(iv) the occupancy of, and use that may be made of, them by any person; and

(v) the entitlement of a person holding a licence for a tourist accommodation or a hotel residence that he has placed on the hotel inventory to be managed by a property management company to relief under Hotel Concession Orders, tourism investment orders and other enactments; and

(c) governing the renting out or use for profit of land held, by a restricted person who is not a permanent resident, under a licence or land in respect of which the issue of a licence is deferred under section 85 and in particular—

(i) prohibiting or requiring a permit for such renting or use of the land; and

(ii) requiring the payment of a charge, including a charge based on the rent or other proceeds from the land, different charges in different circumstances, different charges for different classes of restricted persons, and charges for visitors who rent accommodation on the land.

(2) The affirmative resolution procedure shall apply to regulations made under subsection (1).

[Section 102C inserted by 2007:16 s.5 effective 22 June 2007; amended by 2010 : 1 s. 6 effective 25 February 2010; subsection (1) paragraph (ba) amended by 2010 : 40 s. 8 effective 27 August 2010; subsections (1)(ba) and (1)(c) amended by 2015 : 22 s. 12 and 13 effective 8 June 2015; subsection (1) (ba)(v) amended by 2017 : 36 s. 14 & sch. 3 effective 10 November 2017]

Regulations subject to the negative resolution procedure

102D (1) The Minister may make regulations—

(a) prescribing the form and manner in which applications for licences are to be made and the information, documents and attestations that must accompany them;

(b) prescribing rules for calculating areas of land for the purposes of section 89;

(ba) *[repealed]*

(c) prescribing minimum annual rental values, in particular those applicable to—

(i) exempted companies, restricted persons generally and restricted persons who are permanent residents;

(ii) condominium units and other residential valuation units; and

(iii) non-residential valuation units; and

(d) respecting registrations under section 102 and the register maintained under section 102A, and in particular—

(i) prescribing the form and manner of registrations; and

(ii) prescribing information to be provided and documents to be deposited in the Office of the Land Title Registrar.

(2) The negative resolution procedure shall apply to regulations made under subsection (1).

[Section 102D inserted by 2007:16 s.5 effective 22 June 2007; amended by 2010 : 1 s. 7 effective 25 February 2010; subsection (1) amended by 2010 : 40 s. 9 effective 27 August 2010; Section 102D inserted by 2007:16 s.5 effective 22 June 2007; amended by 2010 : 1 s. 7 effective 25 February 2010; subsection (1) amended by 2010 : 40 s. 9 effective 27 August 2010; subsection (1)(ba) repealed by 2015 : 22 s. 14 effective 8 June 2015; Section 102D inserted by 2007:16 s.5 effective 22 June 2007; amended by 2010 : 1 s. 7 effective 25 February 2010; subsection (1) amended by 2010 : 40 s. 9 effective 27 August 2010; Section 102D inserted by 2007:16 s.5 effective 22 June 2007; amended by 2010 : 1 s. 7 effective 25 February 2010; subsection (1) amended by 2010 : 40 s. 9 effective 27 August 2010; subsection (1)(ba) repealed by 2015 : 22 s. 14 effective 8 June 2015; subsection (1) amended by 2017 : 9 s. 11 effective 20 February 2017]

Production of Documents Relating to Land Trusts

Powers of the Director of Economic Development to order production

102E (1) Without prejudice to his powers under section 125, the Director of Economic Development may require any person to produce for inspection any document relating to a land trust that the person may have in his possession or under his control, if the Director of Economic Development considers such inspection necessary to obtain any of the following information—

(a) the date that the trust was made;

(b) a description of the land held by the trustees and their estate or interest in it;

(c) the names and addresses of the trustees, the beneficiaries and all persons who have transferred property to the trustees to be held upon the terms of the trust, and their dates of birth if they are individuals;

(d) the particulars of any property transferred to the trustees; and

(e) the particulars of any financial assistance provided by a restricted person in any way in connection with the land held by the trustee.

(2) If the land trust in relation to which a document is required was not made in writing, the Director of Economic Development may require the person referred to in subsection (1) to prepare a memorandum setting out any information referred to in subsection (1)(a) to (e) that the person knows or is reasonably able to ascertain.

(3) The Director of Economic Development's power to require the production of a document for inspection under subsection (1) or a memorandum under subsection (2) shall be construed as including a power—

(a) to take copies of such document or memorandum, and to retain them for a reasonable time for such purpose;

(b) to require any information contained in a computer system to be produced in a form in which it is admissible under section 43B of the Evidence Act 1905; and

(c) to require any supplementary information and declarations to be provided, if needed in order to have the evidence admitted under section 43B of the Evidence Act 1905.

[Section 102E inserted by 2007:16 s.5 effective 22 June 2007; Section 102E amended by 2020 : 51 s. 2 effective 21 December 2020]

Confidentiality of information

102F (1) The Director of Economic Development shall keep the information in any document or memorandum obtained under section 102E confidential and shall not disclose it to any person other than—

(a) a public officer or public authority for the purpose of administering or enforcing this Act; or

(b) a person named in a court order, if the Director of Economic Development is ordered to disclose the information by a court.

[Section 102F inserted by 2007:16 s.5 effective 22 June 2007; Section 102F subsection (1) amended by 2020 : 51 s. 2 effective 21 December 2020]

Penalties

Indictable offences

102G (1) Any person who contravenes section 76 or 77, 78(1), (2) or (2A), 79(1), 80(1) or 81(1) commits an offence and is liable on conviction on indictment to a maximum fine of $1,000,000 or to imprisonment for five years, or to both.

(2) In addition to any penalty imposed under subsection (1), the court may make an order of forfeiture under section 102M.

[Section 102G inserted by 2007:16 s.5 effective 22 June 2007]

Summary conviction offences

102H (1) A person is liable on summary conviction to a fine of $50,000 or imprisonment for 12 months, or to both if that person—

(a) fails to register, or knowingly provides false information or documents in a registration under section 102;

(b) contravenes a condition of a licence issued to the person under this Part;

(c) fails to return a licence that has lapsed to the Director of Economic Development, as required by section 97(3);

(d) fails to make a report as required under section 102B(1) or (2); or

(e) contravenes a regulation made under section 102C or 102D.

(2) A corporation that contravenes section 75(1) commits an offence and is liable on summary conviction to a fine of $50,000.

[Section 102H inserted by 2007:16 s.5 effective 22 June 2007; Section 102H amended by 2010 : 1 s. 8 effective 25 February 2010; Section 102H subsection (1)(c) amended by 2020 : 51 s. 2 effective 21 December 2020]

Failure to produce documents, etc.

102I (1) Any person who fails to produce a document or memorandum required by the Director of Economic Development under section 102E commits an offence and is liable on summary conviction to a fine of $50,000 or imprisonment for 12 months, or to both.

(2) Any person who—

(a) wilfully fails to produce a document or memorandum required by the Director of Economic Development under section 102E, or

(b) produces a document or memorandum referred to in paragraph (a), knowing, or having reasonable grounds to suspect, that information contained in it is false,

commits an offence and is liable on conviction on indictment to a fine of $100,000 or imprisonment for two years, or to both.

[Section 102I inserted by 2007:16 s. 5 effective 22 June 2007; Section 102I amended by 2020 : 51 s. 2 effective 21 December 2020]

Offence by corporation

102J Where a corporation commits an offence under this Part, any director, officer, employee or other person acting on behalf of or as a nominee of the corporation who consented to, participated in, or acquiesced in the acts that constitute the offence, or may reasonably be considered to have done so, is deemed to have committed the offence and is liable—

(a) on conviction on indictment to the same penalty as the corporation and to imprisonment for five years or to both; or

(b) on summary conviction to the same penalty as the corporation and to imprisonment for 12 months or to both.

[Section 102J inserted by 2007:16 s.5 effective 22 June 2007]

Restraint Orders and Forfeiture of Land

Restraint order

102K (1) The Director of Public Prosecutions may apply to the Supreme Court for a restraint order in relation to land described in the application where he has reason to believe that—

(a) an offence has been committed under section 76, 77 or 78(1), (2) or (2A); and

(b) in the event of a conviction for the offence, the land is liable to forfeiture under section 102M.

(2) An application for a restraint order may be made ex parte to a Judge in Chambers.

(3) The court, if satisfied that there is reason to believe that the grounds for the application referred to in subsection (1)(a) and (b) are met, may make a restraint order prohibiting any person from dealing in the land.

(4) The court may specify in the order such other conditions as it considers reasonable, including a requirement that the land be maintained in the state that it is in on the date of the order.

[Section 102K inserted by 2007:16 s.5 effective 22 June 2007]

Variation or discharge of restraint order

102L (1) Any person affected by a restraint order may apply to the Supreme Court to have the order varied or discharged.

(2) The court shall discharge a restraint order on land if an application for forfeiture of that land is not made within a reasonable time after the order is issued.

[Section 102L inserted by 2007:16 s.5 effective 22 June 2007]

Forfeiture

102M (1) The Director of Public Prosecutions may, on conviction of a person for an offence under section 76, 77 or 78(1), (2) or (2A), apply to the Supreme Court for forfeiture to the Crown of the land in respect of or in relation to which the offence was committed.

(2) The Director of Public Prosecutions shall send a copy of the application for forfeiture to any person that he knows holds an interest in, or security against, the land and cause a notice of the application to be published in the Gazette.

(3) Subject to section 102N, the court may, if satisfied that the land is land in respect of or in relation to which the offence was committed, declare that any right, title or interest in the land be forfeited to the Crown.

(4) The judgment declaring forfeiture operates to vest in the Crown all the estate and interest in the land.

[Section 102M inserted by 2007:16 s.5 effective 22 June 2007]

Third party claims

102N (1) The Supreme Court shall give a reasonable opportunity to persons holding any interest in, or security against, the land that is liable to forfeiture to object to the declaration or to claim their interest in the land.

(2) In a judgment declaring forfeiture, the court shall decide all claims referred to in subsection (1) but shall not recognize any interest or security held by—

(a) any person who takes a mortgage or charge on land without the approval of the Minister required under section 80; or;

(b) any person who participates in a scheme referred to in section 81(1).

[Section 102N inserted by 2007:16 s.5 effective 22 June 2007]

Appointment and powers of receiver

102O (1) Where the Supreme Court declares forfeiture of the land, it may appoint a receiver and empower the receiver, subject to such conditions as the court may direct—

(a) to take possession of the land;

(b) to manage or otherwise deal with the land; or

(c) to sell the land.

(2) The court may order any person having possession of the land or an interest in the land to give possession of it to the receiver.

(3) The receiver may cause the land to be sold by a public authority by public auction or tender and the public authority shall pay the proceeds of the sale into the Consolidated Fund as part of the public revenue.

(4) The receiver shall not be liable to any person in respect of any loss or damage resulting from an action taken by the receiver in relation to the land if—

(a) the receiver has reasonable grounds for believing that he is entitled to take such action; and

(b) the loss or damage was not caused by the receiver's negligence.

[Section 102O inserted by 2007:16 s.5 effective 22 June 2007]

PART VII

DEPORTATION

Interpretation of Part VII

103 In this Part, unless the context otherwise requires—

"convicted person" means a person in respect of whom any court certifies to the Governor that he has been convicted, either by that court or, where that court is the Supreme Court sitting in its appellate jurisdiction, then by the court of summary jurisdiction from which his case has been brought by way of appeal, of any offence punishable with imprisonment, otherwise than only in default of payment of a fine;

"person charged" means a person in respect of whom it is alleged that there are grounds for making a deportation order, and includes a person in respect of whom a deportation order has been made.

Non-application of Part VII as respects persons possessing Bermudian status or their wives, etc

104 Nothing in this Part shall apply or have effect so as to authorize or empower the Governor to make a deportation order in respect of a person—

(a) who possesses and enjoys Bermudian status; or

(b) who, although not deemed to possess and enjoy Bermudian status, is the wife of a person who both possesses Bermudian status and is ordinarily resident in Bermuda, being a wife who is not living apart from her husband under a decree of a competent court or a deed of separation; or

(c) who, although not deemed to possess and enjoy Bermudian status, is the child or step-child, or adopted child, under the age of eighteen years of a person who both possesses Bermudian status and is ordinarily resident in Bermuda,

and sections 105 to 118 shall, as respects Commonwealth citizens be construed accordingly.

[Section 104(c) amended by 2000:1 s.5 effective 8 March 2000; para (c) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001; para (c) amended by 2002:36 Sch para 3(h) effective 19 January 2004]

Arrest of persons charged

105 (1) Where—

(a) any immigration officer generally or specially authorized in writing by the Minister in that behalf; or

(b) any police officer,

believes on reasonable grounds that a person is a person charged he may arrest that person.

(2) Any person arrested under subsection (1)—

(a) may be detained in any prison, police station or immigration office until he can be brought before a magistrate;

(b) shall be brought before a magistrate not later than the first day upon which a court of summary jurisdiction sits subsequent to the day of arrest.

(3) The magistrate may, where a person is brought before him under subsection (2)—

(a) if he is not satisfied that the person concerned is a person charged, order—

(i) the release of such person; or

(ii) the further detention of such person for a period not exceeding seven days, so that inquiries be made into such person's circumstances;

(b) if he is satisfied that the person concerned is a person charged, order the further detention of such person for a period not exceeding fourteen days pending a decision of the Governor, acting under the provision of section 106 to make a deportation order.

(4) It shall be lawful for any person having the custody of any person detained under this section to suffer such person, at his request, to depart from Bermuda.

(5) The magistrate may, in his discretion, release a person subject to detention under this section upon his entering into a recognizance with or without sureties, for a reasonable amount, to appear before the magistrate at a time and place mentioned in such recognizance—

(a) in the case of a person in respect of whom inquiries are to be made, for the purposes of such inquiries;

(b) in the case of a person detained pending a decision of the Governor, acting under section 106, or the purpose of being notified of the determination of the Governor.

(6) If at any time it should be made to appear to a magistrate that a person detained under subsection (3)(a) or who, being subject to detention under subsection (3)(a), has been released under subsection (5)—

(a) is not a person charged, the magistrate shall forthwith order the release of such person or the discharge of his recognizances, as the case may be;

(b) is a person charged, and subject to subsection (5), order the detention of that person under subsection (3)(b).

(7) For the purposes of this section "a person charged" shall not include a person in respect of whom it is known that a deportation order has been made.

(8) This section shall apply where a person charged is a person whose presence in Bermuda is unlawful by reason of a contravention of any provision of this Act, notwithstanding that criminal proceedings might be brought against such person by reason of such contravention, whether or not they have been so brought, as they do to a person who is a person charged for any other reason.

(9) In any proceedings before a magistrate under this section a certificate under the hand of the Chief Immigration Officer that the Minister has forwarded the name and particulars of any person to the Secretary to the Cabinet under section 115 shall, on its production, be conclusive evidence that the person to whom the certificate relates is a person charged.

Power of Governor to make deportation order

106 (1) The Governor may, if he thinks fit, make a deportation order in respect of a person charged—

(a) who is a convicted person in respect of whom the court, certifying to the Governor that he has been convicted, recommends that a deportation order should be made in his case, either in addition to or in lieu of dealing with him in any other way in which the court had power to deal with him; or

(b) who is a destitute person; or

(c) who is a person in respect of whom the Governor considers it conducive to the public good to make a deportation order; or

(d) who is a person whose presence in Bermuda is unlawful by reason of a contravention of any provision of this Act.

(2) Where any case in which a court of summary jurisdiction has made a recommendation for the making of a deportation order is brought by way of appeal before the Supreme Court, and the Supreme Court certifies to the Governor that it does not concur in the recommendation then such recommendation shall be of no effect, but without prejudice to the power of the Governor to make a deportation order under subsection (1)(b), (c) or (d).

(3) A deportation order made under this section may be made subject to any condition which the Governor may think proper.

(4) Before the Minister makes any recommendation to the Governor under subsection (1)(c) in respect of a person charged whose presence in Bermuda is lawful, he shall cause a notification in writing to be served upon the person charged that he proposes to make such a recommendation in his case at the expiration of fourteen days or such longer period as may be specified.

Power to detain, etc., person charged

107 (1) When a court recommends the making of a deportation order in respect of a convicted person such person may, if the court so orders, be detained in such manner as the court may direct for a period not exceeding twenty-eight days pending the decision of the Governor with regard to the making of a deportation order; and any person shall, whilst so detained, be deemed to be in lawful custody.

(2) A person in respect of whom a deportation order has been made may be detained in such manner as may be directed by the Governor, and may be placed on

board a ship or aircraft about to leave Bermuda, and shall be deemed to be in lawful custody whilst so detained and until the ship or aircraft finally leaves Bermuda:

Provided that—

(a) no person shall be detained under subsection (1) for a period exceeding twenty-eight days, and

(b) nothing in this proviso shall derogate from any power mentioned in subsection (2) to place any person in respect of whom a deportation order is in force on a ship or aircraft, or derogate from any provision whereby any such person is to be deemed to be in lawful custody thereafter until such time as the ship or aircraft finally leaves Bermuda.

Form of deportation order; power of revocation, variation, etc

108 (1) A deportation order shall be in such form as the Governor may approve.

(2) The Governor may at any time revoke, vary or modify a deportation order as may appear advisable.

Service of deportation order, etc

109 (1) A deportation order shall be served upon the person to whom it is directed by any immigration officer or police officer.

(2) In every case where a deportation order is served in accordance with subsection (1), it shall be the duty of the immigration officer or police officer serving the order to inform in writing the person upon whom the order is served of his right to sue out a writ of habeas corpus.

Duty to comply with deportation order

110 (1) A person in respect of whom a deportation order is made shall leave Bermuda in accordance with the terms of the order, and shall thereafter so long as the order is in force remain out of Bermuda.

(2) Any person who contravenes subsection (1) commits an offence against this Act.

(3) Any person who returns to Bermuda in contravention of a deportation order may again be deported under the original order, and section 107 shall apply accordingly in respect of any such person.

Duty to afford transportation of deportee to place outside Bermuda

111 (1) The master of a ship or the commander of an aircraft about to call at any place outside Bermuda shall, where arrangements have been made for the reception of a person to be deported, if so required by an immigration officer, receive that person and his dependants (if any) on board the ship or aircraft and shall afford him and them a passage to that place and proper accommodation and maintenance during the journey.

(2) Any person who fails to comply with any requirements duly given under subsection (1) commits an offence against this Act.

(3) The Minister may apply any money of a person charged which has been deposited with the Chief Immigration Officer under any provision of this Act, in payment of the whole or any part of the expenses—

(a) of or incidental to his journey out of Bermuda; and

(b) of the maintenance until the departure of the person charged and his dependants (if any).

(3A) If there is any shortfall under subsection (3) or if no money was deposited, and the person to be deported was previously employed under a work permit granted under section 61, the person's most recent employer shall be responsible for any expenses—

(a) of or incidental to the person's journey out of Bermuda; and

(b) of the maintenance until the departure of the person charged and his qualifying dependants (as defined in section 61AB) (if any).

(4) Except so far as they are defrayed under subsection (3) or (3A), or under section 130(2)(c), any expenses incurred in the administration of this Part shall be paid out of the Consolidated Fund out of moneys provided by Parliament for that purpose.

[Section 111 subsection (3A) inserted and subsection (4) amended by 2013 : 35 s. 6 effective 1 April 2014]

Harbouring deportee

112 (1) Any person who harbours any person who is in Bermuda in contravention of a deportation order commits an offence against this Act:

Provided that it shall be a good defence for a person charged with an offence under this section to prove that he did not know, and had no reasonable cause to suspect, that the person harboured was a person who was in Bermuda in contravention of a deportation order.

Arrest of person contravening, etc., Part VII

113 Any person who acts in contravention of this Part, or is reasonably suspected of having so acted, or being about so to act, may be taken into custody without warrant by any immigration officer or police officer.

Evidence in proceedings taken under Part VII

114 In any proceedings taken under, or in connection with, any provision of this Part—

(a) the burden of proof that a person charged is exempted from the application of this Part by virtue of section 104, shall be upon such person;

(b) any document purporting to be a deportation order shall, until the contrary is proved, be presumed to be such an order; and

(c) any deportation order shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made.

Duty of Minister to inform Secretary to Cabinet of persons recommended for deportation

115 It shall be the duty of the Minister to forward to the Secretary to the Cabinet for the information of the Governor the name and particulars of any person who should, in the opinion of the Minister, be deported.

Duty of Commissioner of Prisons to inform Chief Immigration Officer of persons detained who are liable to deportation

116 It shall be the duty of the Commissioner of Prisons to forward to the Chief Immigration Officer, for the information of the Minister the name and particulars of any person committed to prison or to the senior training school as a result of his conviction as soon as may be after such committal where, after reasonable enquiries, it appears to the Commissioner of Prisons that the person so convicted is a person to whom this Part applies.

Governor to act in his discretion in certain circumstances

117 Notwithstanding any provision of law to the contrary, where the Governor is of the opinion that the exercise of any power or the discharge of any duty conferred or imposed by or under this Part relates to matters for which he is responsible under section 62 of the Constitution (which includes, amongst others, matters of external affairs and internal security) the Governor may exercise such power or discharge such duty acting in his discretion.

Provisions relating to effect of deportation orders made under Deportation Acts 1937 to 1939

118 *[omitted]*

PART VIII

SUPPLEMENTAL, ETC., PROVISIONS

Power of Minister generally to make regulations

119 (1) Subject to this Part the Minister may make regulations for administering this Act and for giving effect to its objects, purposes and intentions, or with respect to any matter or thing which by or under this Act may be or is to be prescribed by regulations made by the Minister.

(2) Nothing in subsection (1) shall have effect so as to authorize the Minister to make regulations in respect of any matter where the power to make statutory instruments is expressly conferred upon the Governor.

General provisions relating to regulations

120 (1) Regulations made in pursuance of any provision of this Act may require that the regulations, or any part or extract therefrom, shall be displayed in any prescribed place.

(2) Regulations may provide for prescribing the forms, notices or other documents to be used, and particulars to be given, in connection with this Act.

(3) Any person who contravenes any provision of any regulations made in pursuance of any provision of this Act or with any order, direction or requirement lawfully made, given or imposed by any person under the authority of those regulations, commits an offence against this Act:

Provided that where a person engaged or employed in the administration of such regulations omits to perform any duty imposed upon him as such the omission shall not constitute an offence against this Act.

(4) Regulations made in pursuance of any provision of this Act, shall not, except as expressly provided in this Act, prescribe any charge or fee to be made or recovered in respect of any service performed, or duty executed, or power exercised, or permit granted, by or on behalf of the Minister or person charged with the execution of this Act.

Notices, etc., to be in writing; form of notices, etc

121 (1) All notices, orders, consents, demands and other documents authorized or required by or under this Act or by or under any regulations made thereunder to be given, made or issued by the Minister, and all notices and applications authorized or required by or under this Act or by or under any such regulations to be given or made to, or to any officer of the Department shall, except where otherwise expressly provided, be in writing.

(2) Without prejudice to any provisions of this Act specifying forms, provision may be made by regulations made under this Act for prescribing the form of any notice, order, certificate or other document to be used for giving effect to any provision of this Act and, if forms are so prescribed, those forms or forms to the like effect may be used in all cases to which those forms are applicable.

(3) Notwithstanding anything in the foregoing provisions of this section, where it appears to an officer of the Department that it is in the circumstances impracticable forthwith to give, make or issue any notice, order, consent, demand or application in writing the officer may communicate, or allow to be communicated, the substance and effect of the notice, order, consent, demand or application orally, and in any such case such notice, order, consent, demand or application shall be deemed to have been duly given, made or issued; so, however, that it shall be the duty of the person making any such oral communication as aforesaid to comply with subsection (1) and subsection (2) as soon as may be thereafter.

Authentication of documents

122 (1) Any notice, order, consent, demand or other document which the Minister is authorized or required by or under this Act, or by or under regulations made thereunder, to give, make or issue may be signed on behalf of the Minister—

(a) by the Chief Immigration Officer; or

(b) by any other officer of the Department authorized by the Minister in writing to sign documents of the particular kind or, as the case may be, the particular document.

(2) Any document purporting to bear the signature of the Chief Immigration Officer or to bear the signature of an officer duly authorized by the Minister to sign such a document or the particular document, shall, for the purposes of this Act, and of any regulations made in pursuance of any provision thereof, be deemed until the contrary is proved, to have been duly given, made or issued by or under the authority of the Minister.

Service of notices, orders, etc

123 Any notice, order, consent, demand or other document which is required or authorized by or under this Act to be given to or served on any person may, in any case for which no other provision is made by this Act, be given or served—

(a) by delivering it to that person; or

(b) in the case of an immigration officer, by leaving it at his office or sending it in a prepaid letter addressed to him at his office; or

(c) in the case of any other person, by leaving it, or by sending it in a prepaid letter addressed to him, at his usual or last known residence; or

(d) in the case of a corporate body or other body of persons, by delivering it to the secretary or clerk thereof at their registered or principal office, or by sending it in a prepaid letter addressed to the secretary or clerk at that office; or

(e) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of "owner" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises; or

(f) in the case of a person who is a passenger in or a member of the crew of, or any other person living on a ship, by delivering it to the master of the ship, or, in the absence of the master, by delivering it to the next senior officer in charge of the ship.

Appeals to Immigration Appeal Tribunal

124 (1) Without prejudice to anything in section 10, where a person is aggrieved by any decision of the Minister in respect of which an appeal is expressly allowed by any provision of this Act, he may, subject to the succeeding provisions of this section, within seven days of the service of any notice upon him communicating that decision to him, appeal to the Immigration Appeal Tribunal by notice in writing addressed to the Clerk of the Immigration Appeal Tribunal; and the Immigration Appeal Tribunal shall, subject as hereafter provided, determine any such appeal, and may make such order as appears to him just; and the Minister shall govern himself accordingly.

(2) Where a person who is outside of Bermuda at the time when he receives a notice communicating to him the decision of the Minister as aforesaid he shall be deemed to have duly lodged an appeal if he despatches a notice in writing to the Clerk of the Immigration Appeal Tribunal in the ordinary course of transmission by post within seven days of receiving the notice.

(3) Where, in respect of any decision of the Minister, an appeal is allowed under this Act, the notice notifying the person concerned of the decision of the Minister in the matter shall also notify the person that he has the right to appeal to the Immigration Appeal Tribunal, subject to subsection (1), and shall also notify the time within which he must lodge an appeal as provided in subsection (1) or (2).

(4) Where a person lodges an appeal as provided in subsection (1) (or as the case may be, in subsection (2)) he shall, at the time of so doing, deposit with the Clerk of the Immigration Appeal Tribunal the sum of $250, and if the Immigration Appeal Tribunal dismisses the appeal or the appeal is abandoned, that sum or such part thereof as the Immigration Appeal Tribunal may determine shall be forfeited to Her Majesty and shall be paid into the Consolidated Fund.

(5) Where any person duly lodges an appeal as provided in subsection (1) (or, as the case may be, subsection (2)), then the decision of the Minister in respect of which notice of appeal was given shall, unless the Immigration Appeal Tribunal otherwise directs, be stayed pending the determination of the matter by the Tribunal.

(6) *[Repealed by 2011 : 30 s. 4]*

[Section 124 amended by 2011 : 30 s. 4 effective 10 August 2011]

Power to put questions and require production of documents, etc

125 (1) Without prejudice to anything in section 126, the Minister or any immigration officer or police officer, or any other person lawfully acting in the execution of any provision of this Act may—

(a) put any question to any person, being a question reasonably required in connection with the proper discharge of their or his functions under this Act; and

(b) require any person to produce for inspection any document which he may have in his possession or under his control, being a document of

which the inspection is reasonably required in connection with the proper discharge of such functions as aforesaid.

(2) Without prejudice to anything in section 133, any person who fails without lawful excuse (the proof of which shall be upon him), to answer fully and truthfully to the best of his knowledge and belief any such question, or to produce for inspection any such document, commits an offence against this Act.

(3) Any power to require the production of a document for inspection shall be construed as including a power—

(a) to take copies of such document, and to retain it for a reasonable time for such purpose;

(b) to require any information contained in a computer system to be produced in a form in which it is admissible under section 43B of the Evidence Act 1905; and

(c) to require any supplementary information and declarations to be provided, if needed in order to have the evidence admitted under section 43B of the Evidence Act 1905.

[Section 125 subsection (3) substituted by 2007:16 s.6 effective 22 June 2007]

Power to enter premises

126 (1) Subject to this section, an immigration officer in possession of a warrant granted by a magistrate or a Justice of the Peace under subsection (2) shall be entitled to enter any premises specified in the warrant, if need be by force, for the purpose of—

(a) ascertaining whether there is, or has been, on or in connection with the premises any contravention of this Act or of any statutory instrument in force thereunder, being provisions which it is the duty of the Minister or of the Governor to enforce;

(b) ascertaining whether or not circumstances exist which would authorize or require the Minister or the Governor to take any action under this Act or under any statutory instrument in force thereunder; or

(c) taking any action authorized, or required by this Act, or any statutory instrument in force thereunder, or any order or direction made or given in pursuance of any provision of this Act or of any such statutory instrument, to be taken, or executed, by the Minister or by the Governor.

(2) A magistrate or a Justice of the Peace may issue a search warrant on application by an immigration officer, and section 464(1), (1A), (2) and (6) to (8) of the Criminal Code 1907 apply as if the immigration officer were a police officer referred to in that section.

(3) An immigration officer entering any premises in execution of a warrant granted under this section may take with him such other persons as may be reasonably necessary in the circumstances; and on leaving any unoccupied premises which he has

entered in the execution of a warrant as aforesaid the immigration officer shall leave the premises as effectually secured against trespassers as he found them.

(4) A warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

[Section 126 subsection (1) amended, and (2) substituted, by 2007:16 s.7 effective 22 June 2007]

Records of arrivals in and departures from Bermuda; evidence

127 (1) It shall be the duty of the Minister to cause records to be kept and maintained of the entry of all persons into Bermuda, and of the departure of all persons from Bermuda.

(2) Without prejudice to anything in the Evidence Act 1905, any such record shall be received in evidence in any court or in any tribunal whatsoever in Bermuda as evidence, prima facie, of any entry or particular entered therein.

Furnishing of copies of Act, etc

128 It shall be the duty of any immigration officer to furnish, on demand and without charge, a copy of this Act and of any statutory instruments in force thereunder to the master or agent of any ship.

Recovery of amount of public charges incurred for persons declared to be liable

129 Where any person is declared to be financially responsible for any public charges incurred in respect of the maintenance of any other person, or of such person's subsequent repatriation, removal or deportation from Bermuda, the public authority by which such charges, or any part of such charges, were incurred may recover the amount of such charges, or of that part thereof, whether or not the amount claimed exceeds $1,200, from such person before a court of summary jurisdiction in the manner prescribed by the Magistrates Act 1948, for the recovery of a debt or liquidated demand.

Application of money deposited with Chief Immigration Officer

130 (1) Where under section 33(e) a sum of money has been deposited with the Chief Immigration Officer in respect of any person (hereinafter referred to as "the person concerned") whether by himself or by any other person, the Chief Immigration Officer shall forthwith communicate in writing to the person concerned or, if the money has been deposited by any other person, then to that person, the substance of the provisions set out in subsection (2), and the Chief Immigration Officer shall then as soon as may be deposit the money in the Consolidated Fund in accordance with such directions as may from time to time be given in that behalf by the Accountant General.

(2) With respect to any money deposited in the Consolidated Fund as aforesaid the following provisions shall have effect—

(a) if the person concerned acquired Bermudian status, then the money shall be repaid to the person who made the deposit on application by him to the Minister:

Provided that if at any time the Minister is satisfied that having regard to the purposes of this Act it is no longer necessary to retain the money the money may by order of the Minister be paid to the person who made the deposit before the person concerned acquires Bermudian status;

(b) if public charges are incurred in respect of the person concerned or his dependants the money may by order of the Minister be applied to or towards defraying such charges;

(c) if the person concerned is lawfully ordered or required to leave Bermuda under any provisions of this Act the money may by order of the Minister be applied to or towards defraying the expenses of or incidental to providing transport to a place outside Bermuda for the person concerned and his dependants; and any balance remaining shall be paid to the person who made the deposit on the departure of the person concerned from Bermuda with his dependents;

(d) if the person concerned by written notice to the Minister giving such particulars as the Minister may require, satisfies the Minister that he is about to leave Bermuda with his dependants the money shall be paid to the person concerned on his departure from Bermuda with his dependants if he made the deposit, or, if the deposit was made by another person, then the money shall be repaid to that other person on the departure of the person concerned from Bermuda with his dependants; and

(e) if the person concerned dies, the money may by order of the Minister be applied to or towards defraying the expenses of providing transport to a place outside Bermuda for the dependants of the person concerned, or to or towards defraying any public charges in respect of the person concerned or his dependants; or

(i) if the deposit was made by the person concerned then any money remaining after the payment of charges (if any) mentioned in the foregoing provisions of this paragraph may by order of the Minister be withdrawn from the Consolidated Fund and deposited in the Savings Bank in the name of the estate of the person concerned and in such case such money shall be deemed to have been deposited in the Savings Bank by the person concerned and in his name and shall be dealt with accordingly as provided by the law for the time being relating to the Savings Bank [*but see now Act 1974:109 under which the Savings Bank was wound up*]; and

(ii) if the deposit was made by another person, then any money remaining after the payment of the charges (if any) mentioned in the foregoing provisions of this paragraph shall be repaid to that other person.

(3) No interest shall be payable in respect of any money while it is deposited in the Consolidated Fund.

(4) Where it is made to appear to the Accountant General that there is no person to whom any sum of money deposited under this section may be paid, or that any sums of money have, after the lapse of a period of not less than seven years after the date on which they might be claimed, and after reasonable notice has been given in the Gazette, remained unclaimed, the Accountant General may direct that such sum of money is to cease to be treated as a deposit to which this section relates and is to be applied towards the general revenue of Bermuda, or may direct that such sum of money or any part thereof be paid to any person who appears to the Accountant General to have a moral or equitable claim to such money; and either such payment directed as aforesaid shall be final and conclusive:

Provided that in special circumstances the Accountant General may direct that the amount of any such sum of money or any part thereof may subsequently be paid to any person who appears to the Accountant General to have a moral or equitable claim to the amount of such money notwithstanding that the amount of such sum has previously been directed to be applied to the general revenue of Bermuda.

(5) In this section any reference to money deposited in the Consolidated Fund shall be construed as meaning the balance at the material time of such money and any part of such money

Determination of nationality of alien, etc

131 For the purpose of this Act—

(a) where an alien is recognized as a national by the law of more than one foreign country or where for any reason it is uncertain what nationality (if any) is to be ascribed to an alien, that alien may be treated as the national of the foreign country with which he appears to be most closely connected for the time being in interest or sympathy or as being of uncertain nationality or of no nationality:

Provided that where an alien acquired a nationality at birth he shall (unless the Governor otherwise directs either generally or in the particular case) be deemed to retain that nationality unless he has subsequently acquired by naturalization or otherwise some other nationality, and is still recognized by the Sovereign or country whose nationality he has acquired as entitled to protection; and

(b) where a deportation order is in force under this Act against any person that person shall, unless the Governor otherwise directs, be deemed to retain his nationality as at the date of the making of the deportation order, notwithstanding any intervening naturalization, marriage or any other event.

General provisions regarding contraventions of Act and statutory instruments

132 Without prejudice to any other provision of this Act, any person who contravenes any provision of this Act or of any statutory instrument in force thereunder, or who fails to comply with any order, demand, requirement or direction lawfully issued, made or given under this Act or under any such statutory instrument, commits an offence against this Act:

Provided that where a person engaged or employed in the administration of this Act omits to perform any duty imposed upon him, as such, the omission shall not constitute an offence against this Act.

Obstruction of persons acting in execution of Act

133 Any person who wilfully obstructs any, other person who is acting in the execution of this Act, or of any statutory instrument in force thereunder, commits an offence against this Act.

Offences relating to false statements, use of false documents, etc

134 (1) Any person—

(a) who, in connection with the carrying into effect of any of the purposes of this Act, makes or causes or allows to be made any return, statement or representation, which is false in a material particular and which he knows to be false or which he does not believe to be true; or

(b) who, without lawful excuse (the proof of which shall be upon him) alters or causes or allows to be altered any certificate or other document issued under this Act, or any entry in any document lawfully made under or in accordance with this Act; or

(c) who, without lawful excuse (the proof of which shall be upon him) uses or possesses, or causes or allows to be used or possessed, any forged, altered or irregular passport, visa, certificate of citizenship, travel document or other connected document, or any endorsement on any of such documents,

commits an offence against this Act.

(2) Nothing in the foregoing provisions of this section shall derogate from or abridge—

(a) any provision of the Criminal Code which relates to forgery; or

(b) any provision of the Passport Act 1932.

Obligation of secrecy

135 (1) No immigration officer or other public officer acting in aid of an immigration officer shall disclose, directly or indirectly, to any person except—

(a) the Governor or a person authorized by him to be privy to the information; or

(b) the Minister; or

(c) a member of the Board of Immigration; or

(d) any other officer of the Department being a person whose duties, in the opinion of the Minister, make it necessary that he should be privy to the information,

any information obtained by virtue of any provision of this Act, which shows or tends to show the remuneration paid by any particular employer to the persons or any of the persons in his employ, or the other conditions of service of such persons.

(2) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

Prosecution of offences against Act

136 Offences against this Act, other than offences prosecuted on indictment under Part VI, shall be prosecuted before a court of summary jurisdiction.

[Section 136 substituted by 2007:16 s.8 effective 22 June 2007]

137 *[Section 137 amended by 1997:37 effective 6 May 1999; and by 1999:8 s.2 & Sch 1 effective 1 April 1999; repealed by 2007:16 s.9 effective 22 June 2007]*

Arrest

138 Offences against this Act shall be such that the offender may be arrested without warrant and sections 454 and 461 of the Criminal Code shall apply accordingly.

Time within which prosecutions may be instituted

139 Notwithstanding anything in any other provision of law, a prosecution for a summary conviction offence under this Act may be instituted at any time within the period of 12 months next succeeding the date on which the act or omission constituting the offence first became known to the informant in the proceedings.

[Section 139 substituted by 2007:16 s.10 effective 22 June 2007]

Conduct of prosecutions

140 A prosecution for an offence against this Act, other than an offence under Part VI, may be conducted before a court of summary jurisdiction by an immigration officer duly authorized by the Minister in that behalf.

[Section 140 substituted by 2007:16 s.10 effective 22 June 2007]

Punishment for offences against Act

141 (1) A person who commits an offence against this Act, other than an offence under Part VI, shall be liable to the punishments set out in this section.

(1A) Punishment in respect of a first offence: $10,000 or imprisonment for 3 months or both such fine and imprisonment

(1B) Punishment in respect of a second or subsequent offence: $25,000 or imprisonment for 12 months or both such fine and imprisonment.

(1C) Punishment in respect of a continuing offence: $500 for each day during which the offence continues.

(2) Nothing in the foregoing provisions of this section shall apply or have effect so as to limit or restrict any punishment which may be imposed under the Criminal Code in

respect of an act or omission which, though constituting an offence under this Act is prosecuted under the Criminal Code.

[Section 141 subsection (1) substituted by 2007:16 s.11 effective 22 June 2007; subsections (1A) and (1B) amended by 2013 : 35 s. 7 effective 1 April 2014]

Offences by corporations

142 Where any corporation is guilty of an offence against this Act, other than an offence against Part VI, and that offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager or secretary or other similar officer of the corporation or any person who was purporting to act in any such capacity, he, as well as the corporation, commits that offence and shall be liable to be proceeded against and punished accordingly.

[Section 142 substituted by 2007:16 s.12 effective 22 June 2007]

Evidence in proceedings taken under or in connection with Act

143 (1) In any proceedings taken under, or in connection with, any provision of this Act—

(a) the burden of proof that any person has or had, at any material time—

(i) a particular status for the purposes of this Act; or

(ii) a particular nationality; or

(iii) a particular occupation, or, as the case may be, no occupation,

shall be upon that person;

(b) any document purporting to set forth any order or direction given under this Act shall be presumed, until the contrary is proved, to constitute any such order or direction as aforesaid; and

(c) any order or direction given under this, Act shall be presumed, until the contrary is proved, to have been validly given and to have been given on the date on which it purports to have been given.

(2) In this section any reference to the giving of an order shall be construed as including a reference to the making of an order, and to the giving of a direction or a decision, and to the imposing of a requirement.

Commencement of Act

144 *[omitted]*

Repeal of Acts

145 *[omitted]*

Consequential amendment of Acts

146 *[omitted]*

Transitory provisions

147 *[omitted]*

FIRST SCHEDULE A

(Section 19(2))

PERSONS WITH A QUALIFYING BERMUDIAN CONNECTION

1. For a person to have a qualifying Bermudian connection under section 19 of this Act, he must fall within a class of a description set forth in paragraph 2; and those descriptions are subject to paragraphs 3 and 4.

2. The classes of persons referred to are—

A a person who at any time answered one of the following descriptions—

(a) he was deemed to possess Bermudian status under subsection (2) of section 16 of this Act;

(b) [Repealed by 2020 : 16 s. 9]

(c) he would have qualified under (a) above had he been a Commonwealth citizen.

B a person who at any time possessed Bermudian status under this Act, except where his claim to possess such status depends solely on his rights under subsection (2) of section 16 of this Act or under subsection (2) of section 4 of the Bermuda Immigration and Protection Amendment Act 1980;

C [Repealed by 2020 : 16 s. 9]

D a person who can show that he has had an honest belief that he is Bermudian and who, in the Minister's opinion, has conducted himself in everyday life as Bermudian and has been accepted by the community of Bermuda as possessing Bermudian status. In forming that opinion, the Minister must be of the view that the following conditions are satisfied in relation to that person, that is to say, that—

(a) although not in law possessing Bermudian status—

(i) he has worked in Bermuda free of control under Part V of this Act; or

(ii) he has obtained ostensible title to land without being required to obtain a licence from the Government; or

(iii) he has voted in a general election in Bermuda without being challenged; and

(b) there is other evidence indicating generally that he has been accepted as a person possessing Bermudian status by persons dealing with him.

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;

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.

3. The requirements specified in subparagraphs B or D (as the case may be) of paragraph 2 must have been satisfied throughout the period mentioned in paragraph (b) of subsection (1) of section 19 of this Act.

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

4. In considering an application under section 19 of this Act, the Minister shall apply the law in force at the time he is considering the application, whether or not that law is different from the law in force at the time when any event or circumstance forming part of the facts underlying the application occurred.

[First Schedule A inserted by 1994 : 23 effective 13 July 1994; amended by 1997 : 33 effective 1 May 1998; note to para. 2A deleted by 2002 : 36 Sch. para. 3(i) effective 19 January 2004; First Schedule A amended by 2020 : 16 s. 9 effective 1 September 2020]

FIRST SCHEDULE

(Section 59)

SPECIAL CATEGORY PERSONS

PART I

PERSONS IN GOVERNMENT EMPLOYMENT

1 Any person who is a public officer within the meaning of section 102 of the Constitution or who is a judge of the Supreme Court or of the Court of Appeal within the meaning of the Constitution.

2 Any person who is employed in Bermuda by Her Majesty's Government in the United Kingdom or who arrives in Bermuda as required by any branch or department of that Government for the purpose of taking up any such employment.

3 Any person who is a member of Her Majesty's Regular Forces or of any Reserve Force while embodied or mobilized, or the armed forces of any foreign country recognized by Her Majesty who is in, or who arrives in, Bermuda in the course of his duty as such.

4 Any person who is the accredited representative or agent of any part of Her Majesty's dominions.

5 Any person who is an officer or servant of an international organization upon whom any immunities or privileges are granted under section 1(2) of the International Organizations Etc. (Immunities and Privileges) Act 1948, and who is in, or who arrives in, Bermuda for the purposes of any such organization.

6 Any person who is a consular officer of any foreign country, who is in, or who arrives in, Bermuda solely for the purpose of discharging his duties as such.

PART II

PERSONS NOT IN GOVERNMENT EMPLOYMENT

1 Any person who is a member of the crew of any ship ordinarily engaged in ocean-going voyages to places outside Bermuda.

1A Any person (not falling within paragraph 1) who is a member of the crew of a superyacht, as defined in section 1 of the Passenger Ships and Other Vessels Act 1972, which is providing chartering services in Bermuda in accordance with a charter permit granted under section 3C of that Act.

2 Any person who is employed as a member of the crew of aircraft ordinarily engaged in flights to places outside Bermuda.

3 Any person who is engaged as a member of the scientific or technical staff of the Biological Station maintained under the Biological Station Act 1927.

[First Schedule Part II amended by 2019 : 27 s. 7A (see also by 2019 : 53 s. 3) effective 1 January 2020]

SECOND SCHEDULE

(Section 145)

ACTS REPEALED IN WHOLE

[*omitted*]

THIRD SCHEDULE

(Section 146)

CONSEQUENTIAL AMENDMENT OF ACTS

[*omitted*]

FOURTH SCHEDULE

(Section 147)

TRANSITORY PROVISIONS

[*omitted*]

[Assent Date: 30 April 1956]

[This Act was brought into operation on 1 July 1956 by SR&O 10/1956]

Provisions which have affected the
Bermuda Immigration and Protection Act 1956

*[**nb**. this section is not part of the 1956 Act]*

Act No. 40 of 1980, section 4(2) provides—

"(2) Any woman who was deemed to possess and enjoy Bermudian status by virtue of subsection (2) or, as the case may be subsection (3) of section 16 of the principal Act, on or before 1st May, 1980 shall continue to be deemed to possess and enjoy that status in accordance with the appropriate subsection of section 16 aforesaid as if this section had not been enacted and as if those subsections had not been repealed.".

Act No. 40 of 1980, proviso to section 7 provides—

"Provided that the section hereby repealed shall continue to apply to a woman who, in accordance with subsection (2) of section 4 of this Act, continues to be deemed to possess and enjoy Bermudian status notwithstanding the repeal of subsections (2) and (3) of section 16 of the principal Act.".

Act No. 40 of 1980, proviso to section 8 provides—

"Provided that the paragraphs hereby deleted shall continue to apply to any woman who, in accordance with section 4(2) of this Act, continues to be deemed to possess and enjoy Bermudian status notwithstanding the repeal of section 16(2) and (3) of the principal Act.".

[For texts see Revised Laws Edition 1971]

Act No. 35 of 1987, proviso to section 10 provides—

"10 (1) Section 16(1((c) of the Interpretation Act 1951 notwithstanding, where—

(a) immediately before 9 July 1987 a person had an accrued right under the Bermuda Immigration and Protection Act 1956 as then in force; and

(b) but for this section, that right has been abolished or restricted by a provision of this Act,

then, subject to this section, that right remains in full force and effect on and after 9 July 1987 as if that provision had not been enacted.

(2) Subsection (1) does not apply in relation to rights affected by section 4(a)(i) of this Act:

Provided that a person—

(a) in respect of whom the decision to grant him Bermudian status under section 19 of the Bermuda Immigration and Protection Act 1956 (as in force immediately before 9 July 1987) had been finally made before 9 July 1987; but

(b) to whom that decision had not been notified before 9 July 1987,

shall for the purposes of subsection (1) be treated as if a certificate of Bermudian status had actually been issued to him under section 19(6) of the Bermuda Immigration and Protection Act 1956 before that date; and such a person is entitled as soon as may be after 9 July 1987 to have such a certificate issued to him.

(3) If—

(a) a person had before 9 July 1987, being then qualified to make application for the grant of Bermudian status under section 19 of the Bermuda Immigration and Protection Act 1956 as then in force, made such an application and paid the requisite application fee; and

(b) immediately before 9 July 1987 a decision had not been finally made whether to approve or reject his application; but

(c) by reason of the operation of section 4(a)(i) and subsection (2) he no longer fulfills the qualifications for the grant of Bermudian status to him,

then he is entitled to the return of his application fee.

(4) Section 7A of the Bermuda Immigration and Protection Act 1956 has effect in relation to any right, hope, claim or expectation of a kind described in section 7A(1)(a) and (b) of the Bermuda Immigration and Protection Act 1956, whether that right, hope, claim or expectation allegedly arose before 9 July 1987 or allegedly arises on or after 9 July 1987.".

[section 4(a)(i) of the Bermuda Immigration and Protection Amendment Act 1987 amended section 19(1) of the Bermuda Immigration and Protection Act 1956 as of 9 July 1987 by deleting the word "five" and substituting the word "ten"]

Act No. 51 of 1993 s. 6 provides -

"6 (1) Notwithstanding the retroactive effect of anything in this Act, nothing in this Act renders invalid or unlawful any thing that was done before commencement day by, or to, or in relation to, a person whose personal status has been retroactively altered by this Act; and that thing remains valid and lawful on and after that day if—

(a) it was valid and lawful when it was done; and

(b) it remained valid and lawful until immediately before commencement day.

(2) "Commencement day" in subsection (1) means the day on which this Act comes into operation.

(3) The reference in subsection (1) to the doing of a thing includes a reference to the making of an omission."

Act No. 36 of 1995 ss. 3, 4 and 6 provide -

"3 Subject to section 4 of this Act, section 3 of the 1956 Act is amended by adding the following subsection—

" (3) Any reference in this Act to a Commonwealth citizen shall be construed as including a reference to a citizen of the Republic of Ireland; and a citizen of that Republic shall, whether or not a Commonwealth citizen, be treated for the purposes of this Act as if he were a Commonwealth citizen.".

4 Section 3 of this Act is deemed—

(a) to have come into operation on the commencement of the 1984 Act; and

(b) to have ceased to have effect immediately before the date of commencement of this Act, but without prejudice to the continuance in force on and after that date of any rights—

(i) of any person, being rights possessed, by virtue of section 3, and paragraph (a) of this section, of this Act, immediately before that date; or

(ii) of any person, being rights derived through a person referred to in sub-paragraph (i) of this paragraph."

6 Consequentially upon sections 3 and 4 of this Act, in relation to a person referred to in either of those sections (but in relation to no other person), subsection (2) of section 8 of the Parliamentary Election Act 1978 has effect in 1995 and 1996 as if that subsection were modified in the manner set forth in the Schedule to this Act.

SCHEDULE (Section 6)

Modification of Section 8(2) of the Parliamentary Election Act 1978 in relation to certain Persons

Subsection (2) of section 8 of the Parliamentary Election Act 1978 is deleted and the following subsection is substituted—

" (2) Subject to this section, the 15th day of March 1995 is the qualifying date for the purposes of subsection (3) of section 55 of the Constitution and of this Act for a parliamentary election at which the date fixed for the poll falls within the period of twelve months beginning with the 16th day of June 1995.".

[Amended by:

1959 : 29
1959 : 74
1960 : 164
1961 : 1
1961 : 54
1961 : 145
1963 : 147
1966 : 129
1967 : 103
1968 : 48
1968 : 140

1968 : 295
1969 : 190
1969 : 669
1971 : 43
1971 : 82
1971 : 100
1971 : 116
1972 : 54
1972 : 154
1972 : 156
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1980 : 31
1980 : 40
1981 : 59
1982 : 72
1984 : 20
1985 : 20
1987 : 35
1989 : 42
1993 : 51
1994 : 23
1995 : 36
1997 : 33
1997 : 37
1998 : 20
1999 : 8
BR 81 / 1999
2000 : 1
2001 : 20
2002 : 6
2002 : 16
2002 : 35
2002 : 36
2003 : 16
2007 : 16
2007 : 24
2010 : 1
2010 : 40
BR 5 / 2011
2011 : 30
2011 : 41
2012 : 31
2013 : 26
2013 : 38

2013 : 35
2012 : 30
2015 : 22
2016 : 37
2017 : 7
2017 : 9
2017 : 11
2017 : 32
2017 : 36
2017 : 40
BR 13 / 2018
2019 : 38
2019 : 27
2019 : 53
2019 : 56
2020 : 16
2020 : 51
2021 : 41
2022 : 36
2024 : 1
2024 : 6
2026 : 19]