

A BILL

entitled

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (ADOPTION) ACT
2016

WHEREAS it is expedient to amend the Bermuda Immigration and Protection Act 1956 to provide for the automatic acquisition of Bermudian status by adoption;

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

Citation

1 This Act, which amends the Bermuda Immigration and Protection Act 1956 (the "principal Act"), may be cited as the Bermuda Immigration and Protection Amendment (Adoption) Act 2016.

Amends section 16

2 Section 16(2B) of the principal Act is amended by, after "or (3)", inserting ", or section 18AA(1) or (2)".

Inserts section 18AA

3 The principal Act is amended by inserting after section 18—

"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—

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- (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.

(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

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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 (8) and (9) of section 18 shall have effect, *mutatis mutandis*, in construing the domicile of the adoptive parents under this section.”.

Consequential amendment

4 The Schedule to the Government Fees Regulations 1976 is amended in Head 6 (Bermuda Immigration and Protection Act 1956) in paragraph (4), by deleting “or 18” and substituting “, 18 or 18AA”.

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EXPLANATORY MEMORANDUM

This Bill would amend the Bermuda Immigration and Protection Act 1956 to provide for the automatic acquisition of Bermudian status by adoption.

Clause 1 gives the citation and is self-explanatory.

Clause 2 amends section 16(2B) to include a reference to section 18AA (inserted by clause 3).

Clause 3 inserts section 18AA (acquisition of Bermudian status by adoption). Currently, under section 16(2), every child adopted (in a manner recognized by Bermudian law) by a person who has Bermudian status is “deemed” to possess Bermudian status. But, in order to acquire (actual) Bermudian status, that person must, after he reaches the age of 18, but before reaching 22, apply under section 20 to be granted Bermudian status. Section 18AA provides for automatic (actual) Bermudian status to be acquired by a child (i.e. a person under the age of 18 years) who is legally adopted by a person with Bermudian status, provided the adoption is initiated before the child’s sixteenth birthday.

Clause 4 is a consequential amendment to the Government Fees Regulations 1976.