



**MINISTRY OF ECONOMY & LABOUR**  
**DEPARTMENT OF IMMIGRATION**  
**WORK PERMIT POLICY**

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## 1.0 INTRODUCTION

The Bermuda Immigration and Protection Act 1956 (“the Act”) requires that all persons must obtain specific permission by or on behalf of the Minister responsible for Immigration if they are to engage in gainful occupation in Bermuda unless they are Bermudian (as set out in the Bermuda Constitution Order 1968, s. 11(5)) (“the Constitution”); a spouse of a Bermudian, widow or widower of a Bermudian; or a PRC holder. The purpose of this Policy is to provide details about how the Department of Immigration (“the Department”) administers the Act. A copy of the Act and the Constitution can be downloaded from [www.bermudalaws.bm](http://www.bermudalaws.bm).

Employers and work permit holders should familiarize themselves with the Act. Part V (Regulation of Engagement in Gainful Occupation), and Section 124 (Appeals to the Immigration Appeal Tribunal) are of particular significance.

### Contacting the Department of Immigration

The Department of Immigration is in the Government Administration Building at 30 Parliament Street, Hamilton HM 12. Contact information is set out on the Department’s website [www.gov.bm/department/immigration](http://www.gov.bm/department/immigration).

### 1.1 Service Levels and Application Forms

For applications which are complete when submitted, employers can reasonably expect the following turnaround times:

<b>APPLICATION TYPE</b>	<b>TIME</b>
Standard, Seasonal and Occasional Work Permits	Thirty (30) working days
Short Term, Periodic, Global, New Business, and Global Entrepreneur Permits, Travelling Salespersons, Letters of Permission	Ten (10) working days
Landing Permits	Ten (10) working days
Emergency Short Term Permits	Four (4) working days

\* Employers should note that when the Department experiences a high volume of submissions, applications may sometimes experience processing delays.

Application forms are available for all applications in this Policy online through the Department website at [www.gov.bm](http://www.gov.bm). Type "Types of Work Permit" in the search bar, click on the link provided and scroll down to the requested application type. Please note: (1) application forms are NOT available at the Department; (2) Completed applications are NOT accepted by email.

## 1.2 Appealing a Decision

Work permit decisions issued in accordance with this Policy shall be made by the Minister and/or his delegates. Employers have the right to appeal any such decisions. All appeals, and accompanying grounds of appeal, shall be reviewed by the Minister.

Notice of intention to appeal a decision should be submitted in letter form to the Department for the attention of the Chief Immigration Officer and marked Immigration Appeal **and the appeal itself should be submitted within fourteen (14) working days, absent extenuating circumstances.** Appeals setting out such extenuating circumstances may be considered outside of the said time frame. Only one appeal is permissible per application.

The appeal must clearly specify the rationale for reconsideration of the application. If the appeal is in relation to a new work permit application for a work permit holder whose work permit has expired, the employee may continue to work while the appeal is being considered ***provided that the appeal is submitted on time.***

For the sake of clarity, if an appeal is submitted outside the said time frame, then the employee **must** stop working. There is a fee for making appeals.

If a work permit is revoked/withdrawn by the Minister, there is a right to appeal to the Immigration Appeal Tribunal per the Act. The appeal must be submitted within 7 days of receipt of the notification of the revocation/withdrawal of the work permit.

## 1.3 Payment of Government Taxes and Employee Benefits

An employer will be required to certify in the work permit application form that it is not delinquent by more than ninety (90) days in meeting its statutory obligations in respect of payments of payroll tax, health insurance, social insurance and pension contributions **for all employees.** In the event an employer is delinquent the employer shall provide documentation that they have made the required payments before the work permit is processed and/or provide proof of an agreed payment plan with the relevant Government departments.

## 1.4 Penalties and Compliance

Section 71A of the Act empowers the Chief Immigration Officer to impose civil penalties of up to \$10,000 on employers who abuse immigration policy. Employers and employees should review the Act to ensure they understand the consequence of making untruthful and/or fraudulent statements in immigration applications. Complaints regarding employers and/or employees who abuse this policy and/or immigration law can be made to the Compliance Section of the Department on 294-0493, 444-2230 or 444-2231 or anonymously via the Immigration Hotline 296- 5202 or

<https://www.doiapps.gov.bm/immigrationtips/> or email [Immigrationcomplaints@gov.bm](mailto:Immigrationcomplaints@gov.bm). Please leave sufficient information for an investigation to commence. Abuses of immigration laws and policies are taken very seriously by the Department and the Minister, so it is incumbent upon employers and employers to read and understand the Act. Where a complaint is deemed to have merit or is being investigated, a Compliance Officer may contact the employer. During this process the employer may be represented by the agent expressly named in the work permit application in question (if applicable). However, for the avoidance of doubt, the use of an agent does not obviate an employer's responsibility for the content of an application.

## 1.5 Fees

All fees in relation to this Policy are available on the Immigration website ([www.immigration.gov.bm](http://www.immigration.gov.bm)).

## 1.6 Responsibilities of the Employer in Filling Job Vacancies

In most cases the main criterion in assessing whether or not to grant foreign nationals' permission to work in Bermuda is whether there is a suitably qualified Bermudian, Spouse of a Bermudian or PRC holder who is interested in the job and available to do it.

Consequently, most work permit categories require employers to conduct a bona fide search which includes advertising vacancies on [www.bermudajobboard.bm](http://www.bermudajobboard.bm) and in the newspaper. Employers have a duty to hire suitably qualified Bermudians, Spouses of Bermudians or PRC holders who fulfil the minimum advertised requirements.

An employer who applies to employ a foreign national in a job for which there was a Bermudian, Spouse of a Bermudian or PRC holder applicant is required to give clear, specific and satisfactory reasons for not employing each Bermudian, Spouse of a Bermudian or PRC holder. The employer of the work permit holder who signs the application documentation is responsible for its contents. This responsibility cannot be delegated under the Act.

By way of example, an explanation that a Bermudian, spouse of Bermudian or PRC holder simply "*Does not meet job requirements*" is an insufficient response for this requirement. The explanation provided for each candidate must cite what particular requirements or experience the Bermudian, Spouse of Bermudian and PRC holder is lacking by reference to the job advertisement. Similarly, simply citing that an applicant is not the right "fit" for a hiring organisation is insufficient explanation and must be expanded upon.

It is important to note that although the Department scrutinizes each application submitted by employers, the Department does not possess the power to force an employer to hire Bermudians, Spouses of Bermudians, PRC holders or any person. The Department can only prevent the hiring of a foreign national by refusing to grant permission to work.

Notwithstanding this, it is expected that employers will fill jobs in the following order:

- Bermudian
- non-Bermudian spouse (including the widow or widower) of a Bermudian

- Divorced parent of a Bermudian
- Permanent Resident's Certificate holder
- non-Bermudian with a qualifying Bermudian connection
- Other non-Bermudians

Where there is a need to lay staff off, employers are reminded that where there is more than one person in a certain job category, non-Bermudians are to be laid off first, i.e. before Bermudians are laid off.

### **1.7 Responsibilities of the Work Permit Holder**

At all times, an employee must be mindful of and adhere to the conditions and/or limitations placed on his/her work permit and of the job responsibilities contained in his/her job description. He/she must also take note of the 'General Information' listed on the back page of his/her work permit document or on our website ([www.immigration.gov.bm](http://www.immigration.gov.bm)) A/so, where it is the responsibility of the employee to repatriate his/her dependents, he/she must honour this commitment and take immediate steps to ensure that when he/she departs Bermuda, his/her dependents will depart too unless the dependents have permission to reside and seek employment per section 5.1.

### **1.8 Requirement for Proficiency in English Language**

Persons coming to work in Bermuda are required to have a working knowledge of the English language to ensure that they can perform their work duties in a safe manner. The burden shall be upon the employer to affirm such proficiency in advance of hiring the applicant.

Testing one's English proficiency will be equivalent to the Test of English as a Foreign Language (TOEFL) found online. This standardized test will measure the work permit holder's mastery of the English language in terms of reading, speaking, listening and writing. For those from non-English speaking countries (where English is not the first language), the TOEFL exam result proving proficiency in English must be submitted with the work permit application.

### **1.9 Employer's Requirement to Repatriate**

The guarantee of repatriation by the employer of the work permit holder and sponsored dependents is enshrined in law under the Act, Section 61AB.

### **1.10 Seeking Employment**

A non-Bermudian resident may not look for a job without first obtaining permission from the Department of Immigration, unless exempted from work permit control by law. Those non-Bermudians who are exempt from work permit control are Permanent Resident's Certificate (PRC) holders and Extension of Spouse's Employment Rights (ESER) holders, spouses of Bermudians and Job Makers.

A non-Bermudian who was a primary work permit holder, but who is no longer employed and, therefore, no longer possesses a valid work permit, may not seek employment or apply for employment without the permission of the Department of Immigration.

### *Permission to Seek Employment and Job Changes During the First Two (2) Years*

Any Standard or New Business Work Permit holder may seek alternative employment without obtaining permission from the Minister, provided they have completed two (2) years of employment with the initial employer. Although there is no limitation on the number of job changes that such a work permit holder may have, the work permit holder is not normally permitted to change employers during the first (2) two years of employment with an initial employer. Exceptions may be made in circumstances where: the work permit holder has been made redundant; the work permit holder has lodged a complaint against their employer with the Department of Labour (and it has been determined that the applicant has a bona fide grievance with the employer); or with the death of an employer. In those circumstance, the work permit holder may make a written request to the Minister to waive the two (2) year requirement.

The following groups of people are prohibited from seeking employment in Bermuda:

- those with permission to reside in Bermuda on an annual basis,
- visitors to Bermuda,
- Work from Bermuda Certificate holders, and,
- Volunteers.

Note: Accountants are permitted to seek alternative employment or work for another employer after completing only 18 months with their initial employer.

#### **1.11 Settling Affairs and Leaving Bermuda**

In cases where permission to work has expired and persons are required to leave Bermuda, the Department allows sixty (60) days to wind-up personal residency arrangements i.e. accommodation lease agreements, utilities, repatriation, transportation of personal effects, etc.

Where there is an agreement between the employer and the work permit holder to leave Bermuda and/or to vacate accommodation in a period less than the time frame specified above, the time frame agreed between the employer and work permit holder shall prevail.

Persons who wish to seek alternative employment may request permission from the Department to do so within 14 days of the last date of employment.

#### **1.12 Employer's Requirement to Inform Bermudians, Spouses of Bermudians and PRC Holders of the Outcome of their Application**

Employers are required to inform all unsuccessful Bermudians, Spouses of Bermudians and PRC holder candidates of the outcome of their application prior to submitting work permit applications to the Department. Employers may be asked to provide evidence of such notification to the Department. A letter or email to the unsuccessful applicant will suffice. The reason the applicant was unsuccessful must be given in the notification. This information is required for the work permit application, in any case, under the Recruitment Disclosure section of the application.

### 1.13 Advertising Criteria

Employers are required to advertise available positions prior to applying for Short Term or Standard Work Permits (unless otherwise set out in this Policy). At a minimum, the position must be advertised three (3) times over a period of eight (8) days in a local newspaper, as well as eight (8) consecutive days on the Government Job Board at [www.bermudajobboard.bm](http://www.bermudajobboard.bm).

The advertisements (newspaper and Government Job Board) must run within two (2) weeks of the first run date of either advertisement. For example, if the first advertisement runs in the local newspaper, the first run date of the advertisement on the Government Job Board should be within two (2) weeks from the first run date of the advertisement in the local newspaper. Failure to run the advertisements within a span of two (2) weeks, will render both advertisements invalid and the employer will be required to re-run both advertisements.

Employers must ensure that the advertisement on the Government Job Board is closed after the application deadline has expired.

Newspaper advertisements may be photocopied or a printed screenshot from the electronic editions of the publication may be submitted. Job postings may be printed, and employers must ensure all advertisements are readable. An entire newspaper edition should **not** be submitted.

#### 1.13.1 Each advertisement must include the following details:

- the title of the job being filled,
- the name, telephone number and mailing/email address of the employer,
- the minimum standards of qualification and experience which shall be clearly specified,
- a brief description the main duties and responsibilities of the job, and,
- notice of the deadline to submit a job application (this must include a grace period of at least five working days after the last advertisement date).

It should be noted that to the extent that a work permit application is not for a new job or position, the employer will have a duty to explain any material changes to the current job advertisement as compared to past versions of the advertisement that were used for prior work permit applications, including any change to qualification or experience requirements. Requisite experience levels should not automatically increase with that of an incumbent employee absent justifiable reason.

An advertisement will be invalid if it contains a job description that appears to be tailor-made to fit a particular existing or potential work permit holder's education, experience or expertise.

An advertisement is also invalid if information from 1.13a is not included in the advertisement. The employer will be required to re-advertise in the local newspaper and the Government Job Board.

The work permit application must be submitted within three (3) months of the date on which the

position was last advertised in either the newspaper or the Government Job Board (which ever had the longest run date), but not before the advertisements close. In cases where the length of the recruitment process does not permit the employer to submit an application within three (3) months of the date the position was last advertised, employers must pay the **Advertisement Extension Fee (per position/job title)** which will permit them to submit the application within six (6) months of the date on which the position was last advertised.

Should any advertised details change prior to the expiry of five (5) working days following the date of the last advertisement, the advertisement shall be invalid, and the employer will be required to re-advertise the position. This is intended to allow sufficient time for Bermudians, Spouses of Bermudians and PRC holders to apply.

Note: The Ministry of Education and schools are permitted to apply for work permits of teaching staff up to nine (9) months prior to the start of the upcoming academic year due to the recruiting cycle for teachers.

#### **1.14 Waiver of advertising**

Each request for a waiver of advertising will be decided on its own merits. The decision of the Minister may be appealed (see section 1.2) upon payment of the requisite fee.

Waivers are automatically granted in respect of:

- the post of CEO or another Chief Officer role,
- the post of Resort Hotel General Manager at a hotel,
- the post of President, Managing Director or Director (must submit organizational chart),
- Periodic, Occasional, New Business, Global, Fintech, and Global Entrepreneur Work Permits, and,
- permits granted pursuant to sections 7.3, 7.4 or 7.8 of this work permit policy (subject to the restrictions listed).

#### **1.15 Refunds**

Refunds in respect of work permit fees paid **will** be given in the circumstances listed below.

- Where a particular term of work permit is applied for and the Department grants a term less than that applied for, the difference in fees between the two work permit terms will be refunded less an administration fee (e.g. If a three (3) year standard work permit is applied for and a two (2) year standard work permit is granted the Department will refund the differential of one (1) year less an administration fee).
- Where a particular term of work permit is applied for and the Department refuses to grant the work permit applied for, the work permit fee will be refunded less an administration fee.
- Where a work permit is cancelled prior to a decision being made, the work permit fee will be refunded less an administration fee.

- Where a work permit application has been submitted and is incomplete, the work permit application will be returned to the employer with a checklist identifying incorrect or missing documents; the work permit fee will be refunded less an administration fee.
- Where a work permit is applied for and granted, and the work permit holder does not in fact come to Bermuda to commence employment, the work permit fee will be refunded less an administration fee□
- Where satisfactory evidence is provided to the Department which indicates the intended work permit holder never commenced employment with the employer identified in the work permit, the work permit fee will be refunded less an administration fee.

Refunds in respect of work permit applications **will not** be given in the following circumstances:

- where a particular term of work permit is applied for and granted and the work permit holder ceases employment (for whatever reason) prior to the expiry of the term of the work permit,
- Landing Permits,
- Short Term Work Permits,
- Letters of Permission, and,
- if a request for a refund is made after the work permit has expired.

### **1.16 Ministerial Discretion and Policy Amendments**

Notwithstanding any policy prescribed throughout this document, the Minister may exercise his discretion in accordance with the Act to waive specific policies upon written request or justification for the same. This is particularly the case in respect of specialized roles where there is a known shortage of Bermudians, Spouses of Bermudians and PRC holders. The Minister has **no** discretion to waive any fees prescribed in the Act or related Regulations.

It should be noted that certain special category persons are exempt from work permit control per the Act. These applicants should therefore refer to Part V of the Act accordingly. In addition, employers and employees should cross-reference this Policy with updates posted on the Department of Immigration's website (<https://www.gov.bm/departments/immigration>). Every effort will be made to notify the public of any such amendments via the press and electronic media. Frequently Asked Questions can be found in Appendix I and form part of this Policy.

### **1.17 Employment Contracts, Accommodations & Access to Personal Documents**

Employers must issue employment contracts to potential work permit holders. A signed copy of the contract must be included with the work permit application. Note, employers must also ensure that any changes to the contract, for whatever reason, are submitted to the Department of Immigration in a timely manner. Employment contracts cannot include any arbitrary clause.

It is the employer's responsibility to ensure that work permit holders have a fixed abode and suitable living quarters.

An employer cannot retain the work permit holder's passport, work permit, employment contract, and other personal documents etc. If the employer retains such documents, the ability to obtain future work permits may be in jeopardy.

### **1.18 False Submissions, Breaches Against the Bermuda Immigration and Protection Act and the Employment Act**

False Submissions, Breaches against the Bermuda Immigration and Protection Act 1956 and the Employment Act 2000 may result in work permits being revoked or refused.

### **1.19 Guidelines for Submitting Photos**

Passport-size photos must be 2x2 inches, with the applicant's head centred in the photo. The background must be plain white. Photos should be clear, in color, of high resolution and printed on high-quality photo paper. Neutral facial expression with eyes open is required. All photos must be identical and taken not more than six months prior to the submission of the application. They must be securely enclosed with the application. The Department may request new photos if these conditions are not met.

For work permit holders, three (3) passport-size photos are required. For dependents, two (2) passport-size photos are required.

### **1.20 Guidelines for Submitting Police Certificates**

A Police Certificate from the applicant's home country, plus any country of residence for the two (2) years immediately preceding the work permit application, must be submitted with the new application where the applicant is coming to Bermuda for the first time. It is important to note that a Police Certificate should be a national police document, encompassing records from the entirety of the applicant's home country and, if applicable, country of residence, and not limited solely to a specific locality or jurisdiction.

When a police certificate is generated electronically and/or the certificate has reference to an online portal to verify/authenticate the police certificate, it should be certified as the authenticated police certificate that was issued prior to submission to the Department.

### **1.22 Arrivals from Jurisdictions with Tuberculosis**

Applicants from jurisdictions with a higher risk of tuberculosis must provide additional information as outlined in Appendix II.

## **2.0 POLICY REGULATING BUSINESS VISITORS**

The purpose of this section of the Policy is to regulate non-residents who visit Bermuda for business purposes. Business Visitors are excluded from selling goods and services directly to the public.

### **2.1 Business Activities for which Business Visitors have the Tacit Approval of the Minister to Conduct Business in Bermuda**

There is no need for an employer to obtain Department approval to land a business visitor in Bermuda provided that the:

- i. business visitor is in possession of a return ticket (as well as a valid multi-re-entry visa if the business visitor is a Visa Controlled National – see Appendix III);
- ii. total length of the stay does not exceed 14 consecutive days (unless specified differently below); and,
- iii. activities undertaken by the business visitor are limited to:
  - a) attending broker meetings,
  - b) attending board/board committee/director meetings,
  - c) attending shareholder meetings,
  - d) attending general business meetings with employees of an organization where the visitor is not being remunerated by the Bermuda based organisation (including external examination boards),
  - e) presenting business seminars or other presentations provided the seminars and presentations are not open to the general public and are not for the purpose of promoting investment schemes or other money-making ventures,
  - f) entering Bermuda for training in techniques and work practices, provided that the training is conducted by a company affiliated by an ownership relationship or conducted by a charity, church group or a non-profit organisation and that the training is not open to the public and limited to observation, familiarisation and classroom instruction,
  - g) entering Bermuda for a job interview,
  - h) entering Bermuda to gather information, or make a presentation, in response to a Request for Proposal or a similar tendering process, provided the business visitor is not being paid for his/her services by the Bermuda-based organisation,
  - i) attending, presenting or exhibiting at conferences,
  - j) internal auditing, including school accreditation and certification audits,
  - k) visiting potential customers, purchasing, checking details or examining goods or services,

- l) visiting current clients to negotiate deals, contracts, policies and other agreements as a service provider (excluding travelling salesman),
- m) providing advice as a financial adviser, provided they are not in contravention of the Investment Business Act 2003 and related regulations,
- n) a journalist, model or photographer on an assignment for an international publication or for international electronic media; or advisers, consultants, trainers, and trouble shooters provided that they are employed abroad, directly by the same Bermuda company (or group of companies) to which the Bermuda client belongs but that (i) the services of such business visitors do not extend to third party clients of the Bermuda business and (ii) the training is for a specific, one-off purpose,
- o) providing services to a private wedding party, i.e. a religious official, photographer, videographer or already resident musical schoolteacher,
- p) interpreters or translators who are existing employees of an overseas organisation and who are accompanying the business visitors,
- q) certified installers of equipment or software or equipment with operating software entering Bermuda to deploy, repair, troubleshoot/debug and/or enhance their products for a Bermuda company whose purchase agreement includes installation, maintenance or troubleshooting,
- r) a fine artist creating works of art who intends to sell paintings of Bermuda abroad;
- s) sports professional(s) or professional team(s) who will be participating in a tournament or sporting event (providing they are not compensated by a person or entity resident in Bermuda),
- t) lawyers, their clients, witnesses, experts and administrative support professionals visiting Bermuda in connection with international dispute resolution including litigation and/or preparation for and participation in international arbitration proceedings, or
- u) lawyers visiting Bermuda to participate in insurance claims-related meetings (including mediations and other settlement meetings) involving insurance policies issued to policyholders located outside Bermuda and governed by laws other than the laws of Bermuda.;
- v) deploying a service provider or consultant in a specialized field, including but not limited to a hiring hire a specialized technician for the purpose of maintaining equipment under contract; providing repairs to pipe organs; installing an upgrade of the business' computer software; or servicing inter-company communications networks; and,
- w) utilising someone for a non-profit organization, a registered charity or a religious institution, such as a coach or teacher of sports, clergy, or a speaker.

## **2.2 Letter of Permission**

A Letter of Permission may be granted for business activities up to one (1) year but the person is limited to no more than 30 days per visit. An extension of time to continue business

activities is not permitted.

A Letter of Permission may be granted to carry out a business activity that falls outside of the activities specified under 2.1 (iii) of this policy and which lasts no more than fourteen (14) days. Activities may include but are not limited to:

- a) providing services or entertainment to a private wedding function,
- b) employing featured act entertainers for a public event (subject to section 7.7 below) or an entertainer(s) for a convention/conference,
- c) landing sports professionals or a professional team participating in an event,
- d) providing short-term training offered by a Bermuda Registered Company, or
- e) authors who wish to undertake book sales and signings.

#### *Application Process*

To apply for a Letter of Permission employers must complete the Letter of Permission Application Form.

### **2.3 Periodic Work Permit**

#### *Purpose and Specifications*

A Periodic Work Permit is to be used by employers seeking to hire non-resident individuals who will make multiple visits to the Island over an extended period, staying no more than thirty (30) days for each visit. Advertising is not required. The Periodic Work Permit holder shall not be in Bermuda for more than a total of one hundred and eighty (180) days per calendar year and must only be coming to Bermuda to fulfil maintenance agreements, equipment warranties, training contracts, or similar service agreements.

Periodic Work Permits may be granted for periods of one (1), two (2), three (3), four (4) or five years.

After arrival, if the holder of a Periodic Work Permit requires a stay longer than thirty (30) days, the employer may apply for an extension of up to a further thirty (30) days by submitting a Visitor's Extension Application.

#### *Eligibility*

Employers may apply for a Periodic Work Permit for individuals who work for an overseas office of their company or for an individual who is a service provider contracted to work for the Bermuda company including a travelling salesperson (see section 2.4). Other applications seeking permission for work outside these categories will be considered on a case-by-case basis by the Minister or his/her designate.

Alternatively, in cases where a service provider is under contract to provide service to a Bermuda company (e.g. maintenance agreements, equipment warranties, training contracts or

similar service agreements) and the business visitor may not always be the same person, the employer may request that the Periodic Work Permit be issued in the name of the foreign company providing the service rather than an individual. Only one representative of the foreign company may land per Periodic Work Permit. For the avoidance of doubt, Periodic Work Permits cannot be used to fill permanent, short-term or part-time employee positions.

### *Application Process*

To apply for a Periodic Work Permit employers must complete the Periodic Work Permit Application Form.

## **2.4 Periodic Work Permit for Travelling Salespersons**

Traveling salespersons are not permitted to visit Bermuda to sell products without first obtaining a Periodic Permit.

Applications for Periodic Permits in respect of travelling salespersons will be accepted from either (a) a local business acting as an agent or (b) from the Bermuda Chamber of Commerce (“the Chamber”). The Chamber will screen each application to determine if the product is already represented by a local firm and whether issuance of the permit will threaten that firm’s interests or, if the product is not yet available on the Island, determine which businesses would have an interest in the product and set up appointments with interested firms on behalf of the visiting traveling salesperson.

Periodic Permits for travelling salespersons are valid for one (1) year only with restrictions as deemed appropriate by the Department upon recommendation by the Chamber.

### 3.0 POLICY REGULATING GAINFUL OCCUPATION IN BERMUDA

The Act requires that the Minister regulate the employment of all persons who are not Bermudian or the Spouse of a Bermudian (including a widow or widower) or a PRC holder. The purpose of this section is to specify how employers can obtain work permits in various categories. Additional information regarding the landing policies of the Department of Immigration is provided in Appendix III.

#### 3.1 Short Term Work Permit

##### *Purpose and Specifications*

The Short Term Work Permit is used by all employers, including not-for-profit organizations, registered charities and religious institutions (unless sections 2.3 or 2.4 apply), to employ an individual to work for periods of up to six (6) months.

A Short Term Work Permit is not a prerequisite to or a substitute for a Standard Work Permit and should not be used as a means to assess performance during a probationary period.

Applications will be accepted for terms of up to three (3), four (4), five (5) or six (6) months. At the conclusion of the Short Term Work Permit term, the holder will be expected to leave Bermuda, unless an extension has been sought within the proper processing period. Short Term Work Permit holders will **not** normally be granted permission to reside and seek employment.

Short Term Work Permits do not need to be advertised.

##### *Eligibility*

Short Term Work Permits will only be granted to individuals where the purpose of the application is to:

- a) utilize the services of someone employed by a Bermuda company's overseas subsidiary, affiliate organization, or parent company for the execution of a project,
- b) deploy a service provider or consultant in a specialized field,
- c) hire a specialized technician for the purpose of maintaining equipment under contract; providing repairs to pipe organs; installing an upgrade of the business' computer software; or servicing inter-company communications networks,
- d) utilize someone for a non-profit organization, a registered charity or a religious institution, such as a coach or teacher of sports, clergy, a speaker or a musician or entertainer for a period not exceeding 60 days,
- e) employ a *locum tenens* minister of religion or physician,
- f) provide short-term training offered by a Bermuda Registered company which exceeds 14 days, or

- g) employ a person based on a bona fide emergency arising from:
- loss of key staff,
  - mass exodus of staff, other than that arising from an industrial dispute,
  - breakdown of equipment, including computer hardware and software, which is integral to the operation of the business,
  - secondment of an employee of any of its overseas branches, subsidiaries, affiliates or parent company required to troubleshoot a problem,
  - retaining an outside consultant to troubleshoot a problem,
  - temporarily filling a vacancy where there is potential risk to life or economic survival, e.g. *locum tenens* in the emergency room of the hospital,
  - a potential disaster situation, including but not limited to a cybersecurity or other disaster recovery related event, and
  - business recovery after a disaster.

### *Application Process*

To apply for a Short Term Work Permit employers must complete the Short Term Application Form.

In cases of a bona fide emergency, employers should contact their respective Department representative by email with the particulars of the situation justifying the request for emergency service. If the department is satisfied with the justification, further instructions will be given for the submission of the application. A Short Term emergency application must be submitted within 48 hours from the date the Department confirms that there is a bona fide emergency.

If an application requires a referral to a Statutory Board, a decision within 4 business days is not likely to be achieved.

A Short Term Work Permit may be issued to person(s) for a six (6) month period to work and reside in Bermuda in respect of an exempted company or section 114B start-ups.

## **3.2 Global Entrepreneur Work Permit**

### *Purpose and Specifications*

A Global Entrepreneur Work Permit is used by business service companies who have a business relationship with global investors who wish to domicile a company in Bermuda.

### *Eligibility*

To qualify for a Global Entrepreneur Work Permit, the work activities should include business planning, seeking appropriate Government or regulatory approval(s). The global investor must meet compliance or financial requirements or demonstrate proof of the ability to raise capital.

## *Application Process*

Global Entrepreneurs must provide a letter of application to the Department justifying the request together with a letter from a Bermudian or Bermuda business services company verifying the intent of the applicant and a completed Global Entrepreneur Work Permit Application Form. The Minister will grant a permit provided he is satisfied that the applicant is a bona fide investor or businessperson that is likely to domicile a company in Bermuda. Advertising is not required for such permits.

### **3.3 Standard Work Permit**

#### *Purpose and Specifications*

The purpose of a Standard Work Permit is to allow all organizations in Bermuda to employ foreign nationals if they can demonstrate that a Bermudian, Spouse of a Bermudian or PRC holder was not suitably qualified or available to be hired. Employers may apply for Standard Work Permits of one (1), two (2), three (3), four (4) or five (5) years.

#### *Eligibility*

Employers are permitted to apply for Standard Work Permits for jobs that are in the open, special or restricted category. Applications for Standard Work Permits are not allowed for closed category jobs.

To apply for a Standard Work Permit employers must complete the Standard Work Permit Application Form.

### **3.4 Intra-Company Transfer**

#### *Purpose and Specifications*

An employer can apply for a Standard Permit for a person who is already employed by a global company in another jurisdiction to transfer to the Bermuda office without the requirement to advertise the position. The company must demonstrate that the Work Permit holder is not being transferred to fill a pre-existing position in Bermuda. If the Work Permit holder falls within a job category where a statutory council must be consulted that must still be done (see section 3.12).

Applications will be automatically approved in respect of individuals who have been employed for greater than one (1) year and who earn a gross salary greater than \$125,000 per year. Applications in respect of individuals employed for less than one (1) year and/or those earning less than \$125,000 will be considered on a case by case basis. Approval will depend substantially on demonstrating that the addition of the Work Permit holder will add value to Bermuda. An Intra-Company Transfer is not applicable to positions listed in the closed or restricted categories (see relevant sections below).

#### *Eligibility*

Only global employers are eligible to apply for Intra-Company Transfers. For the purposes of this Policy a global employer is defined as any company in Bermuda that employs people in jurisdictions outside of Bermuda. Franchise businesses that operate in Bermuda are not global employers for the purpose of this Policy.

#### *Application Process*

To apply for an Intra-Company Transfer an employer must complete the Standard Permit Application Form.

### **3.5 New Business Work Permit**

#### *Purpose and Specifications*

A New Business Work Permit allows an exempted company (per the definition in the Companies Act 1981 (“the Companies Act”)) that is new to Bermuda to receive automatic approval of work permits within the first nine (9) months of obtaining the first new business permit. The first New Business Work Permit must be applied for within the first 12 months of the business registration or incorporation. There is no need to advertise the positions (which is normally the requirement of the Standard Work Permit). New 114B companies to Bermuda (per the definition in the Companies Act) will automatically be granted New Business Work Permits – however these will be limited to five (5) New Business Work Permits within the first nine (9) months of obtaining the first New Business Work Permit. New Business Work Permit holders may be employed in any job category provided that their position is not an entry level position, a graduate position or a trainee position or specified in a closed or restricted category (see sections below). However, if the New Business Work Permit holder falls within a job category where a statutory council must be consulted that must still be done (see section 3.12).

Although the number of permits that can be issued under this Policy is not capped, new businesses that anticipate requiring more than five (5) work permits within the first nine (9) months of operation (e.g. due to relocating an existing business from another jurisdiction) will be required to present additional information to the Minister. Such information includes their Bermuda office staffing plan, including their projections for hiring and developing Bermudians, as well as plans for engaging local service providers to support their organization. When considering 114B New Business Work Permits the Minister shall consider such plans as aforementioned.

New Business Work Permits will be issued for one (1), two (2), three (3), four (4) or five (5) years. At the end of the New Business Work Permit term, if the employer wishes the incumbent to remain in Bermuda, they must apply for a Standard Work Permit.

#### *Eligibility*

To qualify for a New Business Work Permit, employers must provide a certificate of incorporation of a Bermuda exempted company or section 114B certificate and, in cases where the first day of

operation is not the same as the date of incorporation, state the date that the company has or will commence operating.

#### *Application Process*

To apply for a New Business Work Permit employers must complete the New Business Work Permit Application Form. It is for the Minister to determine what constitutes a new business.

### **3.6 Fintech Business Work Permit**

#### *Purpose and Specifications*

A Fintech Business Work Permit allows a Fintech company that is new to Bermuda to receive immediate approval of five (5) work permits within the first six months of obtaining the first Fintech Business Work Permit. Employers cannot apply for Fintech Business Work Permits for jobs which are deemed to be closed or restricted positions, such as a front office receptionist, or which are entry level, graduate or trainee positions. A Fintech Business Work Permit may be issued for at least 1 year but not more than 5 years.

Once the initial term of the Fintech Business Work Permit expires, and if an employer wishes for the employee to remain in Bermuda, the position must first be advertised and if no suitably qualified Bermudians, Spouses of Bermudians or Permanent Resident Certificate holders apply for the position, an application for a Standard Work Permit must be completed and submitted to the Department of Immigration. A decision on the application will be rendered in accordance with the normal processing timelines published by the Department of Immigration.

#### *Eligibility*

To qualify for a Fintech Business Work Permit, employers must provide a certificate of incorporation for the new Fintech company. Where the first day of operation is not the same as the date of incorporation, employers must state the date the company expects to commence operating in Bermuda.

#### *Application Process*

To apply for a Fintech Business Work Permit employers must complete the Fintech Business Work Permit Application Form. It is for the Minister to determine what constitutes a Fintech company.

### **3.7 Family Office Permit**

#### *Purpose and Specifications*

A Family Office Work Permit allows a Family company that is new to Bermuda to receive immediate approval of five (5) work permits within the first six months of obtaining the first Family

Office Work Permit. Employers cannot apply for Family Office Work Permits for jobs which are deemed to be closed or restricted positions, such as a front office receptionist, or which are entry level, graduate or trainee positions. A Family Office Work Permit may be issued for at least 1 year but not more than 5 years.

Once the initial term of the Family Office Work Permit expires, and if an employer wishes for the employee to remain in Bermuda, the position must first be advertised and if no suitably qualified Bermudians, Spouses of Bermudians or Permanent Resident Certificate holders apply for the position, an application for a Standard Work Permit must be completed and submitted to the Department of Immigration. A decision on the application will be rendered in accordance with the normal processing timelines published by the Department of Immigration.

### *Eligibility*

To qualify for a Family Office Work Permit, employers must provide a certificate of incorporation for the new Family Office company. Where the first day of operation is not the same as the date of incorporation, employers must state the date the company expects to commence operating in Bermuda.

### *Application Process*

To apply for a Family Office Work Permit employers must complete the Family Office Work Permit Application Form. It is for the Minister to determine what constitutes a Family company.

## **3.8 Application Process for Standard Work Permit in the Closed Category**

Work permit applications for jobs in the Closed category will not be accepted. Employers must hire Bermudians, Spouses of Bermudians or PRC holders for all such positions.

## **3.9 Application Process for Standard Work Permit in the Restricted Category**

The application process for jobs in the Restricted category is the same as that for the Open category (see section 3.11) except the employer:

- a) can only apply for a maximum term of 1 year, and,
- b) must submit evidence that any candidates screened and recommended by the Department of Workforce Development (“DWD”) have been properly considered; DWD is expected to respond to enquiries by employers within ten (10) working days; and, should no response be forthcoming from DWD, the application may be submitted with written evidence that enquiries were made.

## **3.10 Application Process for Standard Work Permit in Special Category Jobs**

The application process for jobs in the Special category is the same as that for the Open category (see section 3.11) except the employer must ensure that they meet the additional requirements as specified in section 7.0.

### **3.11 Application Process for Standard Work Permit in the Open Category**

Prior to making an application for a Standard Work Permit in the Open category, employers must demonstrate that they have made a bona fide attempt to recruit a suitably qualified Bermudian, Spouse of a Bermudian or PRC holder. At a minimum, employers must:

- a) advertise the position pursuant to section 1.13; and
- b) properly consider all those Bermudian, Spouse of Bermudian and PRC holder applicants that meet the minimum standards using reasonable selection practices such as interviews and testing.

Employers submitting more than one application for the same category of employment must ensure a copy of the advertisement is included with each individual application package. All Bermudians, Spouses of Bermudians or PRC holder applicants that meet the minimum job requirements **must** be given an opportunity to be interviewed.

### **3.12 Consulting with Statutory Body Regulating Profession**

The Minister and his/her designate shall consult with the statutory body that regulates matters dealt with by that profession. Those bodies are:

1. Allied Health Professions Council
2. Bermuda Architects' Registration Council
3. Bermuda Bar Council
4. Bermuda Clinical Social Work Council
5. Bermuda Dental Board
6. Bermuda Medical Council
7. Bermuda Nursing Council
8. Bermuda Pharmacy Council
9. Bermuda Psychologists' Registration Council
10. Chartered Professional Accountants of Bermuda
11. Optometrists and Opticians Council
12. Professional Engineers' Registration Council
13. Professional Surveyors' Registration Council
14. Veterinary Practitioners Council

To ensure prompt processing of applications, employers are required to send applications directly to the respective statutory council. The statutory council is expected to review the qualifications and experience of the applicant and determine their eligibility to work in Bermuda. Disclosure of Bermudian, spouse of Bermudian or PRC holder applicants shall not be required to be submitted to the statutory council.

For the avoidance of any doubt, restraint of trade is not considered by the Minister to be a valid reason for a statutory council to oppose the approval of immigration applications. Please see the Department website for the relevant instructions and forms for each statutory council listed.

Note, for a work permit application to be deemed complete it must be accompanied by a response from the statutory council. Employers should allow fifteen (15) working days for a statutory council to review an application and ensure that, for renewals, the work permit application is submitted to the Department of Immigration at least one month prior to the current work permit's expiration.

If a statutory council does not provide a response on a candidates' eligibility within fifteen (15) working days of receiving the application, the employer may submit the work permit application with proof of non-response by the statutory council. The Minister may exercise discretion in determining whether to contact the statutory council.

### **3.13 Notice of Termination**

Employers are required to submit a written notice of termination within 14 working days from the date of notification of termination. The letter must be addressed to the Chief Immigration Officer under title "Notice of Termination". The letter must contain:

- the full name of the employee,
- the date on which the employee terminated employment,
- the date on which the employee left or is planning to leave the island (if known), and,
- the reason for the termination (e.g. end of contract, redundancy, dismissal, quitting).

The employer must also return the original work permit paper document and work permit card (if still valid). If original copies of the permit are not included with the notice of termination, then provide an explanation.

## **4.0 APPLICATIONS TO EXTEND OR MODIFY A WORK PERMIT**

Employers are responsible for ensuring work permit holders comply with all the terms and conditions of their work permit. It is particularly important that work permit holders perform only the job specified on the permit and that they do not work beyond the expiry date of the permit. The following policies regulate how work permits may be extended or modified.

### **4.1 Renewals**

If employers intend to continue to employ a work permit holder in the same job beyond the expiry date of the current work permit, they must apply for a new permit. The same process that was followed to obtain the original permit must be followed again. Applications should be submitted no less than one (1) month and no more than three (3) months prior to expiration of the current work permit.

Provided that the employer has submitted a complete application within the time frame specified above, the incumbent may continue working beyond the expiry of the work permit if the work permit expires while their new application is still pending. If the complete application is not submitted within the time frame specified, the employee must stop working unless specifically authorized by the Minister. Note: An employer cannot apply for a Short Term Work Permit in these circumstances.

### **4.2 Promotions**

For an employer to promote a person on a Standard Work Permit from his/her current job to another in the same business, the employer must first obtain permission in writing. The employer is not required to advertise the post externally but is required to advertise the post internally before applying to promote an employee. Evidence of the results of the internal advertising and the reasons why an employee who is a Bermudian, Spouse of Bermudian or PRC holder was not considered suitably qualified must be submitted. Employers must provide an organizational structure chart to support their application.

Note: For new work permits, promotions will not be approved in the first year after issuance. For renewed work permits, promotions will not be approved within the first six (6) months after issuance.

### **4.3 Changing Job Title**

Where an employer simply wishes to change an employee's job title (for example, to harmonize titles throughout an organization or due to restructuring of departments of employees), provided the job description, the duties of the post, remuneration and benefits remain the same, the employer does not first have to obtain the Minister's permission to do so. The employer may make the changes and, before or after the change, inform the Department by letter, including a new Statement of Employment setting out the revised title. There is no need to advertise the post or undertake internal recruiting efforts.

#### **4.4 Transferring to Another Employer**

In a business merger, acquisition or amalgamation, the surviving entity may wish to retain the services of employees in the business that has been absorbed. In such a case, the employer must apply for permission to make the transfer. The employer may apply to transfer a person on a New Business, Global or Standard Work Permit from one company to another company, without advertising the post, provided the duties remain the same. Bermudians, Spouses of Bermudians and PRC holders have priority over work permit holders in such transfers so employers should fully disclose the implications on the total affected workforce.

A letter from the employer must be sent to the Department providing:

- the full name of the employee,
- the details of the employer's action taken,
- a new or amended Statement of Employment,
- certificate of incorporation, if the company is new or has changed its name, and,
- the non- refundable fee.

#### **4.5 Company Name Change**

When an existing business in Bermuda changes its name, proof of the name change must be submitted to the Department of Immigration with a written request to amend the work permits within 14 days from the effective date of the name change. Employers must also submit new statements of employment and proof of payment of the relevant change fees for each work permit holder.

#### **4.6 Sharing the Services of an Employee**

Sometimes more than one employer wishes to hire a particular person. This is permitted but each employer must obtain a work permit for the individual. The requisite fee must be submitted by each employer.

An application may be made separately or jointly. An application that is submitted jointly by the employers may be advertised jointly provided the name of each employer appears in the advertisement and each employer provides a Statement of Employment.

For domestic workers, applications must be accompanied with a work schedule if an employee is employed by two or more employers.

For corporate businesses, a person may have multiple work permits for different employers, provided they are providing the same job functions (job titles may vary slightly). The application and advertising guidelines, as noted above, apply. Requests will be considered on a case-by-case basis. The validity of all work permits will be aligned. For example, if a person already possesses a work permit (initial work permit), then with any requests for additional work permits by other employers, the Department will take into consideration the end date of the initial work permit. Normally, the validity of the additional work permits will not extend past the end date of the initial permit.

#### **4.7 Adverse Immigration History and Criminal Convictions**

In general, a work permit application will not be approved to employ a person with an adverse immigration history, a criminal conviction (for example, drugs/fraud), or if their previous employment and conduct on the Island was unsatisfactory. For example, multiple breaches of immigration policy and law.

If a work permit holder or applicant is convicted of a criminal offence, the Department will consider each case on its merits in determining whether to revoke the permit or approve an application. In serious cases where the Minister believes the work permit holder poses a threat to Bermuda, the work permit holder (and sponsored dependents, where applicable) may be required to leave Bermuda. Every applicant shall be obliged to make prompt disclosure to the Department of any update to a work permit holder's record of criminal convictions (other than basic traffic offences) in Bermuda and abroad so that the Minister may consider their potential effect on the subject work permit. Any failure to report such convictions may result in the Minister or his/her designate revoking the work permit in question.

#### **4.8 Guidelines for Amending the Dates of a Work Permit:**

The dates of a work permit can only be amended once in the following circumstances:

- where a work permit holder arrives in Bermuda after the work permit commenced and the employer wishes to amend the commencement date, they must submit a written request within one (1) month of the arrival date in Bermuda along with the requisite fee and a copy of the passport page with the arrival stamp; or,
- where a work permit holder has not arrived in Bermuda six or more months after the work permit commenced, he or she must obtain a new police certificate from the country of residence, and it should be submitted to the Department along with an amendment request and fee.

Where a work permit holder has not arrived in Bermuda and the work permit has expired, the work permit cannot be amended and the employer must undertake recruitment again, including re-advertising the position, and submit a new work permit application.

## 5.0 SPONSORED DEPENDENTS

Many employees who are granted permission to reside and work in Bermuda wish for their spouse (married in accordance with Bermuda law), partner, fiancé and/or child(ren) to accompany them. The purpose of this section of the Policy is to specify the qualifications and conditions surrounding sponsored dependents.

A sponsored dependent is limited to the following:

- spouse of a PRC holder or work permit holder (married or in a Domestic Partnership in accordance with Bermuda law);
- partner of a Bermudian, PRC holder or work permit holder (see the detailed guidelines on the Department of Immigration website: <https://www.gov.bm/partner-genuine-and-subsisting-relationships>); or
- child(ren) and legally adopted children, stepchildren, or other dependents for which a PRC holder or work permit holder is a legal guardian.

For this section, the term 'work permit' means a New Business Permit or Standard Work Permit.

For this section, children under eighteen (18) years of age are generally classified as dependents of their parents. In cases where the children are attending a college or university, the children continue to be classified as dependents, on an annual basis, up to the age of twenty-five (25) years. Dependent children, on attaining eighteen (18) years of age, who are not attending a college or university and who wish to reside in Bermuda, require permission in their own right to do so. There may also be special circumstances in addition to the above where children are permitted to be treated as dependents for a longer duration or on an ongoing basis (such as a child is unable, for medical or other exceptional reasons, to live independently) subject to the express permission of the Minister.

For the avoidance of doubt, parents and other relatives are not sponsored dependents. They must apply for a separate permission to reside and have an independent means of income.

### 5.1 Sponsored Dependents Residing and Working in Bermuda

#### Spouses

Upon application, a spouse who is a sponsored dependent of the work permit holder may be given permission to reside with the work permit holder and seek employment. Proof of medical coverage is required.

An application for permission for a spouse to reside and seek employment must include evidence that the work permit holder has a base salary of \$60,000 per annum.

Spouse refers to marriages and domestic partnerships recognized by Bermuda law.

#### Unmarried Partners and Children

Upon application, an unmarried partner who is a sponsored dependent of the work permit holder

may be given permission to reside with the work permit holder and seek employment provided that the sponsor submits proof of financial support for the sponsored dependent. Proof is a bank reference and evidence of medical coverage. The Department reserves the right to require further proof if required to assess the ability of the sponsor to support the sponsored dependent(s). See Partner Policy at Appendix IV.

For section 5 and for the avoidance of doubt, please note that sponsored dependent children are only given permission to reside, not to seek employment.

Applications for permission to reside and seek employment in Bermuda with an unmarried partner and children who are sponsored dependent(s) of a work permit holder must include evidence that the following total base remuneration thresholds will be met:

<b>Demographic Profile</b>	<b>Household Base Salary Remuneration</b>
1 dependent household	\$60,000 per annum
2 dependent household	\$100,000 per annum
3 dependent household	\$125,000 per annum
4+ dependent household	\$200,000+ per annum

**Note:** Base salary does not include housing allowance, bonuses, gratuities, utilities, phone allowance, school fees, transportation, overtime, part-time employment, etc.

The number of dependents permitted per household base salary does not apply to dependent spouses, who may accompany the Standard work permit holder. It applies to partners and children who are dependents.

Upon making application, however, the Minister or his/her delegate may waive the minimum remuneration requirement for dependent partners and children.

Should the sponsored dependents' status change in any way the work permit holder must advise the Department of the change. Failure to do so could result in the primary work permit holder's permit being revoked.

## **5.2 Entry / Re-entry Permit**

A sponsored dependent of a work permit holder may be permitted to land in Bermuda as a bona fide resident after the issuance of an entry/re-entry permit. The entry/re-entry permit allows the holder to seek employment unless otherwise stated on the entry/re-entry permit. To obtain an entry/re-entry permit, employers must follow the instructions in the relevant forms when requesting a work permit.

For all successful applications, the sponsored dependent(s) will be issued an entry/re-entry

permit that is aligned with the end date of the sponsor's work permit. If the passport of the sponsored dependent expires before the end date of the sponsor's work permit, the entry/re-entry permit will be granted to coincide with the sponsored dependent's passport expiry date. Once a certified copy of the new passport is submitted to the Department, a request to amend the dates of the entry/re-entry permit can be made. It is essential that the sponsored dependent always carries the original entry/re-entry document when travelling. Where a sponsored dependent arrives in Bermuda without the entry/re-entry document, an undocumented fee may be levied at the airport.

Where a sponsored dependent of a work permit holder obtains their own work permit, the entry/re-entry permit issued to them will no longer be valid. The entry/re-entry permit should be returned to the Department. In cases where the same sponsored dependent's work permit expires and where they are not issued a new work permit, they can apply for a new entry/re-entry document as a sponsored dependent.

### **5.3 Children Born in Bermuda**

Where a child is born in Bermuda to a work permit holder or to a sponsored dependent of a work permit holder, proof must be provided to the Department that the Bermuda-born child possesses the citizenship of one or other or both of the parent(s). Proof can take the form of:

- a valid passport for the child,
- a certificate of registration or birth certificate of the child as a citizen of a country, or
- a certified letter from the authorities of a country confirming that the child is a citizen of that country, and
- for visa-controlled nationals, a valid multi re-entry visa.

Without such proof, new work permits may not be issued. Additionally, upon renewal of work permits for parents, the minimum base salary thresholds in Table 5.1 will be applicable.

### **5.4 Convictions of Sponsored Dependent**

If a sponsored dependent of a work permit holder is convicted of a criminal offence, the Department will consider each case on its merits in determining the standing of immigration permissions. In serious cases where the Minister believes that the sponsored dependent poses a threat to Bermuda, the sponsored dependent may be required to leave Bermuda. Every applicant shall be obliged to make prompt disclosure to the Department of any update to a work permit holder's sponsored dependent's record of criminal convictions (other than basic traffic offences) in Bermuda and abroad so that the Minister may consider their potential effect on the subject work permit. Any failure to report such convictions may result in the Minister or his/her designate revoking the work permit in question.

### **5.5 Employment of a Sponsored Dependent**

A sponsored dependent may be permitted to work only if he/she is hired by an employer who has followed the normal policy to obtain a work permit. For the avoidance of doubt, sponsored dependents can volunteer for unpaid positions with not-for-profit organizations, registered charities

or religious institutions without permission from the Department.

### **5.6 Employing Relatives**

An employer who makes an application for a work permit to hire a family member must declare the relationship at the time of application. Each such application is treated on its merits. Failure to declare the familial relationship could result in revocation of permission to work.

### **5.7 Sponsored Dependents Who Wish to Remain after the Work Permit Holder has left Bermuda**

Sponsored dependents who wish to remain in Bermuda after the work permit holder has left Bermuda require permission to reside and seek employment. Permission may be granted, but subject always to the sponsored dependents providing satisfactory proof to the Department that they have sufficient funds to remain in Bermuda. If requested, the sponsored dependent must also have specific funds for repatriation to their country of origin to deposit with the Chief Immigration Officer pursuant to section 130 of the Act.

## **6.0 CATEGORIES OF PERSONS GIVEN EXCEPTIONAL CONSIDERATION**

### **6.1 Extension of Spouse's Employment Rights to the Divorced Parent of a Bermudian**

The Extension of Spouse's Employment Rights (ESER) confers privileges to the divorced parent of a Bermudian child or children until the youngest Bermudian child of the household reaches the age of eighteen (18) years, or if he or she is still in college/university, the age of twenty-five (25) years.

A "divorced parent of a Bermudian" is defined as a person with custody of a Bermudian child. Custody includes joint custody as well as sole custody.

These privileges include:

- to reside in Bermuda,
- to seek employment in Bermuda without restriction,
- if one is already employed, to continue to work in that employment without having to apply to the Department for a work permit, and
- to retire from work and reside in Bermuda without the need to apply for any additional permission to do so.

To qualify for the ESER, the applicant must immediately before the divorce from the Bermudian spouse, have been exercising, or was eligible to exercise, his or her spouse's employment rights under section 60 of the Act; must have custody of a Bermudian child; and must be of good character and conduct.

A person wishing to apply for the ESER is required to submit certain documents in support of his or her application. These include:

- a) a completed ESER Application Form which is available on the Department of Immigration website: <https://www.gov.bm/sites/default/files/eserc.pdf>;
- b) two (2) passport-type photographs of the applicant;
- c) a certified copy of the applicant's birth certificate or passport;
- d) a certified copy of the divorce decree absolute;
- e) a certified copy of each child's birth certificate or passport (only for the child(ren) to whom the divorced parent is attaching his/her request for the ESER); if older than eighteen (18) years but under twenty-five (25) years, proof that the child is in college/university on a full time basis; i.e. letters/transcripts from learning institutions, including relevant dates;
- f) proof of custody –sole or joint;
- g) proof that the applicant had exercised, or was eligible to exercise, his or her spouse's employment rights immediately prior to the divorce (i.e. letters from the applicant's employers), or proof of the former Bermudian spouse's ordinary residence in Bermuda (i.e. letters from the former Bermudian spouse's employers), or a letter from a professional person attesting to the continuous ordinary residence in Bermuda of the applicant's former Bermudian spouse;
- h) two (2) character references in support of the application; and
- i) proof that financial obligations are up-to-date, especially if payments have been mandated by the court.

The Minister has the right to revoke the ESER at any time under section 34 of the Act. Without prejudice to the generality of the Minister's rights under the Act, non-exhaustive examples of occurrences which could lead to the revocation of an ESER are as follows: the ESER was obtained by fraud, false pretenses or concealment of a material fact; or the holder is convicted of a crime, whether in Bermuda or abroad, which resulted (or would have resulted if convicted in Bermuda) in a sentence or a term of imprisonment of two (2) years or more whether or not the sentence was served in full or suspended; or the holder resides outside Bermuda for two (2) years or more, without seeking leave from the Minister to do so prior to his or her departure.

## **6.2 Spouses of Consular or Diplomatic Service Officers**

Under section 60(6) of the Act, the spouses of certain consular officers, or of others with diplomatic privileges, are permitted to work outside work permit control provided they fulfil certain requirements. Refer to the Act for details.

## **6.3 Portuguese Nationals**

Employers wishing to employ Portuguese nationals recruited from a Portuguese territory are advised that a formal agreement, the Accord between the Government of Bermuda and the Government of Portugal, governs the conditions and terms of employment of such persons in Bermuda. The Accord must be complied with.

## **6.4 Applications to Reside**

Frequently, there are queries regarding a person's ability to reside and attend college and/or reside and seek employment in Bermuda. In the case of non-Bermudian students, they must first be accepted into the Bermuda College and be at least 18 years old. Thereafter, they must submit an Application for Residence. A non-Bermudian wishing to apply for permission to reside on an annual basis must complete and submit an Application for Residence, also. Those persons with permission to reside may not engage in or seek employment. See Appendix V for detailed information regarding these applications to reside.

## **7.0 SPECIAL CATEGORY WORK PERMITS**

Special category work permits are for those job categories which have special conditions attached. The application process for job categories with special conditions is the same as that for the Open category (see section 3.11) except the employer must ensure that they meet the additional requirements as specified in this section of the policy.

### **7.1 Child-Care Provider**

Child-care providers often hold more than one (1) work permit because they care for more than one (1) child. A child-care provider is limited to caring for a maximum of three (3) children, a regulation set by the Ministry of Health. Whether one (1), two (2) or three (3) employers are engaged in a child-care sharing arrangement, each employer must apply for a work permit for the child-care provider. Child-care sharing arrangements will be considered on a case-by-case basis.

### **7.2 Beauty Salon, Spa and Hairdressing Staff**

Contracts of employment for beauty salon, spa and hairdressing staff must include information relating to holiday and sick pay entitlements. Employers cannot incorporate leave entitlement into the overall remuneration of their employees. This is contrary to the Employment Act 2000, which requires employees to receive paid leave when the statutory leave is taken. For example, an employee cannot agree to a higher rate of commission in lieu of paid sick and/or vacation leave. Employers have an obligation to pay employees for their leave when it is taken.

### **7.3 Family Support**

Those persons employed on Short Term Permits, New Business Work Permits or Standard Work Permits who have been granted waivers of advertising, who personally employ household staff prior to relocating to Bermuda, will automatically be granted, after application, a Standard Work Permit for the staff to relocate to Bermuda and continue working for the same period as their primary employer. There is no need to advertise the positions. This is limited to nannies, in-house elderly and medical care personnel. Should the sponsor family be required to leave Bermuda or decide to relocate to another country, the household staff will also be required to leave unless they obtain specific permission from the Minister to find alternative employment (subject always to the requirement to deposit funds for repatriation with the Chief Immigration Officer pursuant to section 130 of the Act).

### **7.4 Fine Artist**

A person does not require a permit to create a work of art but only galleries are permitted to show and sell the work of artists who are not Bermudian, Spouses of Bermudians or PRC holders.

A gallery is defined as a permanent place of business whose purpose is to display and sell works of art. The definition can include a specialized department in a retail store. For the avoidance of doubt, a hotel that shows and sells paintings or other works of art does not fall within the definition of a gallery.

Galleries who wish to show and sell the work of a visiting artist must first inform the Department by writing a Letter of Permission giving the name of the artist, the duration of the person's

stay and by enclosing the required fee.

Where a resident artist wishes to sell their work of art, they must first obtain a work permit but advertising for the position is not required. This is an exception to the general policy prohibiting self-employment.

Each gallery that wishes to show and sell the work of an artist must satisfy itself that the artist in question is lawfully permitted to do so.

### **7.5 Graduate Trainee & Intern Exchange**

Many companies, especially those with a global presence, have graduate training programmes where participants can opt to work in an overseas office for a period. Advertising for this position is not required. The employer who has an established graduate training programme should write a letter of application to the Chief Immigration Officer identifying the graduate who will be coming to Bermuda as well as:

- the job category and length of training in Bermuda for the foreign graduate trainee or intern,
- the job category and length of training overseas of the Bermudian graduate trainee or intern,
- a completed Short Term Work Permit Application,
- a copy of the foreign graduate's or intern's employment agreement,
- confirmation the graduate or intern has medical insurance valid for Bermuda for the duration of their stay in Bermuda, and
- proof that a qualified Bermudian, Spouse of Bermudian or PRC holder is being trained outside of Bermuda as a graduate trainee or intern.

It is expected that participants in such programmes will not be taking the position of a qualified Bermudian, Spouse of Bermudian or PRC holder. The Department will issue a work permit in respect of the graduate trainee or intern provided that the programme clearly benefits Bermudians, Spouses of Bermudians or PRC holders.

### **7.6 Live-In Domestic Employee (Private Home)**

Under the Employment (Minimum Hourly Wage Entitlement) Act 2022 and corresponding Regulations, a domestic worker's gross pay must add up to at least the minimum hourly wage of \$16.40 for any pay reference period before an employer can begin making any deductions.

While statutory deductions – health insurance, social insurance premiums, and payroll tax – are required, the gross minimum hourly wage payable to domestic workers cannot be less than \$16.40. Additionally, employers are responsible for all the employee's statutory payments. Room and board must be calculated at \$700.00 a month (\$158.00 a week). Also, the termination notice period from either party is to be the same. One month is considered the shortest reasonable period of notice.

The breakdown of the above must be included in employment contracts (or the Statement of Employment section of the work permit application form). Failure to meet these requirements will result in the refusal of work permits.

## **7.7 Musician or Entertainer**

Work permits for foreign musicians/entertainers to perform at commercial locations open to the public (clubs, pubs and hotels) may be granted, provided they are advertised in the normal way. The maximum period for a work permit in the entertainment industry will normally be a Seasonal Work Permit of eight (8) months. However, where a one-off large, commercial entertainment event open to the public is to be held and foreign musicians/entertainers are to be utilised, qualified Bermudian(s), Spouse(s) of Bermudians and PRC holder(s) musician(s)/entertainer(s) of the same entertainment genre must feature in the entertainment event. Failure to feature qualified Bermudian(s), Spouse(s) of Bermudians or PRC holder(s) of the same genre will mean that work permits may not be granted. Promoters and event organizers must also contact the Bermuda Entertainment Union ([bermudaentertainmentunion.com](http://bermudaentertainmentunion.com)) to provide notification of the event, obtain approval and pay any required dues.

## **7.8 Music School Teacher**

Any teacher of music employed under a work permit by a school may take up paid employment, on a casual basis, for up to 14 hours per week, as a performer or tutor outside the school's teaching requirements with the permission of the employer.

Already resident teachers who perform on an unpaid voluntary basis (e.g. weddings, receptions, private parties, Philharmonic Society concerts, musical theatrical productions and similar one-off or short-term engagements) do not require a work permit for such activities (see section 2.1). Voluntary performances by teachers do not count against the weekly 14 hours allowance for paid employment.

However, if the teacher is performing either solo or with a group on a regular part time basis, the place of business (i.e., churches, hotels, restaurants, pubs or bars) must obtain a work permit to hire the teacher in such capacity.

## **7.9 Occasional Work Permit for Casual or Part-Time Employment**

A work permit obtained under this section allows a person, who is already resident in Bermuda, to work in any category of work (e.g. instructor, tutor, fine artist) on a casual or part time basis provided the amount of work done is no more than 14 hours a week. A work permit may be granted for up to one (1) year.

To obtain a work permit under this section, a person must submit a Standard permit application form.

Applications can be made for more than one employer to hire the same instructor or private tutor but the total number of hours for all employers cannot exceed 14 hours per week. Such an arrangement is permitted provided each employer has a separate part-time permit.

## **7.10 Photographer**

Provided the job is advertised in the usual way (per section 1.13), a work permit can be issued to a photographer whose duties do not fall within section 2.1.

## **7.11 Part Owner of a Local Bermuda Business**

Part ownership in a local business does not confer any right to work. For part owners to obtain permission, the applicant must apply for permission in the normal way using the Standard permit application form. Permission is likely to be granted based on the strength of the application and considering:

- the character of the applicant and where relevant, of his or her spouse,
- the existing and likely economic situation in Bermuda,
- the availability of the services of local companies and persons already residing in Bermuda,
- the protection of local interests, and
- the requirements of the community.

Where the industry is new, part owners are more likely to be encouraged, especially where the enterprise creates a new source of quality employment for Bermudians, Spouses of Bermudians and PRC holders and there is a clear and demonstrable benefit to Bermuda and the local workforce. If there is no obvious benefit to Bermuda, the part owner is unlikely to obtain permission to work, particularly in cases where there are Bermudians whose involvement or employment with the business is not bona fide and significant.

This Policy does not apply to exempted companies which may be owned and managed by foreign nationals. Self-employment is not permitted.

Renewals of permits for part owners are not automatic and such persons must ensure that they have provided qualified employment to Bermudians.

## **7.12 Volunteers**

Any resident non-Bermudian who intends to undertake unpaid volunteer work in the community does not require a work permit to undertake such work.

Volunteers who undertake charitable work or serve as officers do not require the specific permission of the Minister. Examples of such organizations are:

- registered charities
- hospitals
- hospices
- sports clubs

- non-profit organisations
- faith-based organisations

### *Paid Positions*

Resident and non-resident non-Bermudians cannot volunteer in paid positions.

Non-profit organizations and registered charities must apply for a Letter of Permission for a non-resident to enter Bermuda to work as a coach, teacher of sports and recreation, pastor, speaker or musician if the circumstances of the proposed activities accord with the provisions of section 2.2.

Volunteers arriving in Bermuda to assist in archaeological work or other scientific field research will be permitted to land for periods up to 6 months as bona fide visitors. Further, this policy does not mean that Bermudian students who are engaged in such scientific studies and wish to participate in such field work are to be excluded.

If the object of the visit is unclear persons will be refused entry into Bermuda.

### **7.13 Book Sales & Signings by Non-Bermudian Authors**

A local bookstore will be required to apply for a Letter of Permission for a non-Bermudian author who wishes to undertake book sales and signings in Bermuda. A Letter of Permission will be required for each visit to Bermuda to undertake the sale and signing of books. Authors can only sell their books and undertake the signings on the premises of a local bookstore. Authors who may already be resident work permit holders cannot use their current work permit to undertake book sales and signings; they too must apply for a Letter of Permission. Permission to undertake book sales and signings can also include media interviews to promote the event.

### **7.14 Actuary**

Work permit applications for an Actuary will be processed within 5 working days provided the:

- job description for the position includes a requirement that the work permit applicant be an Actuary or have a professional actuarial designation,
- applicant possesses at least three (3) years' relevant professional experience,
- position is advertised,
- application is submitted complete,
- position does not need to be referred to a statutory body, and
- there is proof of the applicant's credentials and/or actuarial designation.

Employers must advise the Department when an application has been submitted so that the expedited processing timeline can be met. Notification must be via email.

Note: This policy applies to new work permits, including Standard, Short Term, Periodic, Global and New Business permits. It does not apply to promotions or job title changes.

### **7.15 Secondments**

Secondments are not permitted unless permission has been obtained from the Minister.

### **7.16 Layoffs**

When there is a need to lay off staff, which is to be done in accordance with the Employment Act 2000, employers are reminded that where there is more than one person in a certain job category, non-Bermudians are to be laid off first, i.e. before Bermudians are laid off.

## APPENDIX I

### FREQUENTLY ASKED POLICY QUESTIONS

**1. Is a “Letter of Release” required to be submitted with an application of a person currently employed in Bermuda by another employer?**

No. The “Letter of Release” that was previously required to ensure that employers had no objection to an employee obtaining employment elsewhere is no longer required. Employers are instead required to submit a “Letter of Termination”. Employers that wish to enforce restrictive covenants of contracts of employment (e.g. no-competition clauses) or any alleged breach of contract are encouraged to seek remedy in the courts rather than involve the Department. However, should the former employee be involved in any alleged serious criminal matter contributing to his or her termination, including but not limited to allegations involving fraud, dishonesty, violence, bullying or harassment, the employer should promptly inform the Department. Employers should note, however, permission will not normally be granted to allow persons to move to a second job until they have completed two (2) years’ service with their first employer in Bermuda (see section 1.10).

**2. Can someone visit Bermuda while an application is pending with the Department?**

No. Persons may not visit Bermuda while an application is pending with the Department. This guidance does not apply to renewal applications which are pending.

**3. Are Business Visitor Letters still required?**

No. Employers are not required to issue Business Visitor Letter.

**4. Do I need to have the original copy of my work permit every time I travel?**

Yes. Work permit holders must travel with their work permit document at all times.

**5. What happens if I have not been issued my permit due to delays at DOI?**

Provided the delay is outside of the Department’s published processing timelines, your employer should contact the Department for guidance on when your permit will be issued and when you can commence employment.

**6. When my work permit expires can I leave Bermuda for a vacation and return to settle my affairs?**

Yes. Generally, work permit holders, whose work permit has expired, are given 60 days to settle their affairs and leave Bermuda. During this time period, a person may leave Bermuda for vacation and upon returning to settle their affairs, will be landed as a visitor. Upon returning to Bermuda, they must not seek employment or work.

**7. I am exempt from Part V of the Bermuda Immigration and Protection Act 1956. Am I still required to produce proof of residency at any port of entry?**

Yes. You must present the documentation that proves that you are exempt from work permit restrictions.

**8. I have been Naturalised and possess a BOTC Bermuda passport. Do my family members (spouse and dependants) need to have a re-entry permit?**

Yes. Your family members must provide relevant Immigration documentation that proves they have permission to reside in Bermuda, especially if they are not arriving in Bermuda as a tourist visitor.

**9. Do children born outside of Bermuda to persons under work permit control need to have a re-entry permit?**

Yes. Especially if they are arriving in Bermuda to reside.

## APPENDIX II

### JURISDICTIONS WITH HIGHER RISKS OF TUBERCULOSIS

Individuals from jurisdictions identified as high risk for tuberculosis (TB), or who have ever resided in such a jurisdiction for a period of three (3) months or more must provide a chest x-ray, a letter from a certified physician confirming they pose no health risk and are free from TB, and proof that they possess health insurance that covers prescription drugs. Long-term work permit holders should have another screening for TB, especially if they have travelled to a jurisdiction which is deemed a high risk for TB.

The World Health Organisation's Yearly Report on tuberculosis lists high risk jurisdictions. This list is updated frequently (as may be necessary) by the World Health Organisation and can be found at: <https://www.who.int/teams/global-tuberculosis-programme/tb-reports>.

## APPENDIX III

### LANDING POLICIES AT L.F. WADE INTERNATIONAL AIRPORT & TRAVEL AUTHORIZATION REQUIREMENTS

#### *Landing*

- All non-Bermudian passengers arriving in Bermuda to work must be in possession of the original work permit or document to be landed. Likewise, dependents of work permit holders must be in possession of the original Entry/Re-Entry document to be landed. Passengers who do not possess the original work permit or Entry/Re-Entry document, will be referred to the Immigration Referrals Office for further processing which can include the requirement to pay an undocumented penalty fee (per passenger), or, being refused entry into Bermuda. On the occasion where the undocumented penalty fee is not paid, this too will result in the passenger being refused entry into Bermuda.
- In specific circumstances, passengers may be landed for one (1) business day, charged the undocumented penalty, and instructed to report to the Department of Immigration Headquarters with his/her prospective employer/agent. In such instances, the prospective employer/agent will be contacted in order that they give their verbal undertaking that they (the employer/agent and the passenger) will attend the Department as instructed to address the matter.
- Passengers and dependents arriving in Bermuda with the intent to work, and who attempt to mislead Immigration Officers by claiming to be regular vacationing visitors when in fact they are arriving to perform work-related functions that would ordinarily require the Minister's specific permission will be referred to the Immigration Referrals Office for further processing and are likely to be refused entry into Bermuda.

These landing processes shall apply to all non-Bermudian passengers arriving in Bermuda to work (including dependents) regardless of their category of work permit.

In cases where passengers are refused entry and that decision is overturned, all travel related expenses will be borne by the passenger, the dependents or the prospective employer/agent.

#### *Travel Authorization Requirements*

For the travel authorization requirements refer to Section 26 of the Bermuda Immigration and Protection Act 1956 as read with the Bermuda Immigration and Protection (Prohibition of Entry) Order 2025.

## APPENDIX IV

### PARTNER POLICY

In assessing whether someone is a “partner” of a work permit holder, the following guidelines are to be considered prior to issuance of an entry/re-entry permit to the “partner”. The entry/re-entry permit allows the holder to seek employment unless otherwise stated on the entry/re-entry permit.

The Department of Immigration requires information to determine whether the “partner” of a Bermudian, PRC holder or work permit holder is in a relationship that is genuine and subsisting.

A partner means a person who has been living with a Bermudian, PRC holder or work permit holder in a relationship akin to a marriage for at least two (2) years prior to the date of application. This is not an absolute guideline and is indicative only. There may be circumstances where the required time period has not been met due to partners living in different jurisdictions, but are still in a genuine and subsisting relationship. Each case will be determined on the merits.

The following guidance provides factors that the Department of Immigration will consider when assessing whether a relationship is genuine and subsisting. Sham or forced relationships are not regarded as genuine and subsisting relationships.

#### **Genuine and subsisting**

An applicant and their partner will be asked by the Department of Immigration to provide evidence that they are in a genuine and subsisting relationship.

The Department of Immigration will consider the objective factors set out below when assessing an application for an entry/re-entry permit for a “partner” of the Bermudian, PRC holder or work permit holder. The outcome of an assessment may prompt additional scrutiny from the Department of Immigration to identify and evidence a nongenuine, non-subsisting relationship (which may include a sham or forced relationship) or, where indicated below, may result in an outright refusal.

The list of factors to consider, set out below, is not to be considered as a checklist. Its purpose is to assist and focus consideration of whether an applicant meets the genuine and subsisting requirement.

*Decisions on whether a relationship is genuine and subsisting are to be considered as a whole, based on all the available evidence, on a case-by-case basis, taking account of all the circumstances of the application.*

Whether the relationship is ‘genuine and subsisting’ should be considered upon application. The Department of Immigration will be alert and sensitive to the extent to which religious and cultural practices may shape the factors present or absent in a particular case. Evidence of co-habitation or evidence of intent to marry (in accordance with Bermuda law) can be factors associated with a genuine and subsisting relationship; equally, their absence can be too.

The Immigration Board and Minister responsible for Immigration have discretion to grant or refuse an application based on an overall assessment, regardless of whether one or more of the factors below is, or is not, present in the case. Consideration of whether a relationship is

genuine and subsisting is not a checklist or tick-box exercise. In assessing whether a relationship is genuine and subsisting, consideration should be given to the following factors which are not exhaustive.

### **Factors which may be associated with a genuine and subsisting relationship**

The partners are in a current, long-term relationship and can provide satisfactory evidence of this by way of affidavits from both partners explaining the relationship. This must include details of living arrangements and other such pertinent details (such as those that are listed below).

1. The partners are co-habiting and can provide satisfactory evidence of this e.g. a joint mortgage/tenancy agreement, a joint bank account and/or joint savings, utility bills in both their names.
2. The partners have children together (biological, adopted or stepchildren) and shared responsibility for them.
3. The partners share financial responsibilities (such as information per (ii) above).
4. The partners have visited the other's home country and family and are able to provide evidence of this.
5. The partners have made definite plans concerning the practicalities of them living together in Bermuda.

If the Immigration Board or Minister responsible for Immigration determines that the relationship of the partners is genuine and subsisting, an entry/re-entry permit shall be granted for a period of five (5) years in respect of a partner of a Bermudian or PRC holder. Upon expiry of the entry/re-entry permit, the partner of the Bermudian or PRC holder will be required to re-apply for a new entry/re-entry permit in the normal manner. If there is a change in the status of the relationship the partners must immediately notify the Department of Immigration in writing.

In the case of a partner of a work permit holder, the entry/re-entry permit shall be granted for the duration of the work permit holder's work permit. Upon application of a new work permit, the sponsored partner must apply for an entry/re-entry permit in the normal manner. If there is a change in the status of the relationship the partners must immediately notify the Department of Immigration in writing.

### **Factors which may be associated with a relationship that is not genuine and subsisting**

If a case contains one or more of the factors listed below, this may prompt additional scrutiny of the application but will not necessarily result in a negative decision. The Department of Immigration will continue to look at the circumstances of the case as a whole. Even where additional scrutiny has been prompted by any of the following factors, it does not necessarily mean that the relationship is not genuine and subsisting.

The factors which may prompt additional scrutiny of an application include those listed below. Some factors may also, where specifically stated, lead to a refusal of an application without additional scrutiny but, again, before deciding, the Department of Immigration must continue to look at the circumstances as a whole.

1. One or both partners makes a public statement that their relationship is a sham. An application can be refused on the basis of such a public statement alone.
2. One or both partners makes a public statement (not in confidence) that they have been forced into a relationship. An application can be refused on the basis of such a public

statement alone.

3. There is evidence from a reliable third party (e.g. police, social services, registration service) which indicates that the relationship is or may be a sham or forced relationship.
4. One or both partners does not appear to have the capacity to consent to the relationship, e.g. owing to learning difficulties, and independent evidence, e.g. from a social services assessment.
5. Failure by one or both partners to attend an interview, without reasonable explanation, where required to do so to discuss the application or their welfare, or seeking to undermine the ability of the Department of Immigration to arrange an interview, e.g. by unreasonable delaying tactics by the partners or a third party.
6. The partners are unable to provide accurate personal details about each other (e.g. name, age, nationality, employment, parent's names and place of residence), provide inconsistent evidence, or do not have a shared understanding of the core facts of their relationship, e.g. how and where they met for the first time.
7. There is evidence of money having been exchanged for the relationship to be contracted.
8. There is a lack of appropriate contribution to the responsibilities of the relationship, e.g. a lack of shared financial or other domestic responsibilities.
9. Co-habitation is not maintained (except where one party is working or studying away from home) or there is no evidence that they have ever co-habited since the commencement of the relationship.
10. One partner is a qualified medical practitioner or professional, or has worked as a nurse or caregiver, and the other partner has a mental or physical impairment which currently requires medical assistance or personal care in their own accommodation.
11. The partner has previously sponsored another partner to come to or remain in Bermuda.
12. The partner has previously been sponsored as a partner to come to or remain in Bermuda (i.e. the partner has obtained settlement on this basis) and that relationship ended shortly after the partner obtained settlement. This excludes circumstances where the partner is a bereaved partner, or where the partner obtained settlement on the basis of domestic violence perpetrated by their former partner.
13. The past history of one or both partners contains evidence of a previous sham or forced relationship, or of unlawful residence in Bermuda or elsewhere.
14. One or both partners have applied for leave to enter or remain in Bermuda in another category and been refused.

## APPENDIX V

### PERMISSIONS TO RESIDE IN BERMUDA

#### A) Application to Reside & Attend College

##### *Purpose*

The purpose of this section is to facilitate educational opportunities while regulating non-Bermudian students who wish to attend the Bermuda College. The aim is to maintain academic standards, foster cultural exchange, and safeguard borders.

##### *Application Process & Eligibility*

Students must first be accepted into the Bermuda College and be at least 18 years old. If accepted, students must complete and submit an Application for Residence along with:

- a certified copy of a valid passport,
- certified copy of a valid Multi-Entry Visa (if applicable),
- proof of acceptance to the Bermuda College,
- an original police certificate,
- three (3) passport-size photos,
- evidence of valid health insurance, and,
- proof of financial means to cover tuition, living expenses, and return flight.

The application should be submitted no less than two (2) months prior to the start of the term.

##### *Duration & Conditions of Residence*

Permission is typically granted for the duration of the academic year. Students must maintain full-time status, maintain a minimum Grade Point Average (GPA) of 2.5 (on a 4.0 scale) or its equivalent, attend classes regularly, adhere to all laws, policies, and regulations of Bermuda, maintain good conduct, and report any changes in academic programme immediately.

##### *Termination of Permission*

Permission to reside may be revoked if any conditions of residency is violated and or if he/she fails to maintain full-time student status, fails to meet the minimum GPA requirement, fails to attend classes regularly.

##### *Process to Renew*

To renew a Permission to Reside & Attend College, students must submit an Application for Residence, letter from Bermuda College confirming good standing, proof of financial means, and the requisite fee.

## **B) Application to Reside on an Annual Basis**

### *Purpose*

A non-Bermudian may seek permission to reside on an annual basis. This permission gives a person the right to enter Bermuda, as a resident, based on a single ticket on any number of occasions during the period of its validity. It is important to note that the person to whom permission to reside is granted is prohibited from engaging in and/or seeking employment in Bermuda while the permission lasts.

### *Application Process & Eligibility*

A non-Bermudian wishing to apply for permission to reside on an annual basis must complete and submit an Application for Residence along with the following documents:

- a medical certificate,
- two (2) character references,
- an original police certificate,
- evidence of health insurance,
- three (3) passport-size photos,
- a certified copy of a passport,
- a certified copy of a multi-entry visa (if applicable),
- a bank reference which includes the average daily balance or 12 months of bank statements, and,
- the requisite fee.

### *Duration & Conditions of Residence*

Permission is typically granted for a year. Person must adhere to all laws, policies, and regulations of Bermuda, maintain good conduct, and report any sufficient financial changes immediately.

### *Termination of Permission*

Permission to reside may be revoked if any conditions of residency is violated.

### *Process to Renew*

To apply for renewal of permission to reside on an annual basis, a person must complete and submit an Application for Residence along with the following:

- three (3) passport-size photos,
- a bank reference which includes the average daily balance or 12 months of bank statements, evidence of valid health insurance, and,
- the requisite fee.