

**BERMUDA IMMIGRATION AND PROTECTION AMENDMENT
ACT 2000**



**BERMUDA
2000 : 1**

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[Date of Assent 8 March 2000]

[Operative Date 8 March 2000]

WHEREAS it is expedient to amend the Bermuda Immigration
And Protection Act 1956:

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

Citation

1 This Act which amends the Bermuda Immigration and Protection
Act 1956 (hereinafter referred to as "the principal Act") may be cited as
the Bermuda Immigration and Protection Amendment Act 2000.

Amends section 16 of principal Act

2 Section 16 of the principal Act is amended by deleting
subsection (2) and substituting the following—

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

(a) is a legitimate or legitimated child, or is a step-
child or child adopted in a manner recognised

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by law, of a person who has Bermudian status;
or

- (b) is a child who is born out of wedlock, to a person who has Bermudian status and in respect of whom the conditions specified in subsection (2A) are satisfied,

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

(2A) For the purposes of subsection (2)(b) the Minister must be satisfied that the person has held himself or herself out as the parent of the child either by—

- (a) receiving the child into his or her home and bringing up the child as a member of his or her family with, if the person is married, the consent of his or her spouse; or
- (b) where there is no such consent or the parent is unmarried, by providing maintenance and support for, and otherwise, so far as is practicable, by taking an active role in the overall development of, the child,

and for the purposes of this subsection, the Minister shall take into account such information as the Minister considers appropriate.

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

Repeals and replaces sections 18 and 18A of principal Act

3 Sections 18 and 18A of the principal Act are repealed and replaced by the following—

"Acquisition of Bermudian status by birth

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

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

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- (a) he is a Commonwealth citizen; and
 - (b) one of his parents was domiciled in Bermuda at the time of his birth and that parent possessed Bermudian status at that time.
- (3) A person shall also possess Bermudian status if, being a Commonwealth citizen at the time of his birth—
- (a) he was born in Bermuda on or after 23 July 1993 and, at the time of his birth, one of his parents possessed Bermudian status; or
 - (b) he was born outside Bermuda on or after 23 July 1993 and, at the time of his birth, one of his parents was domiciled in Bermuda and that parent also possessed Bermudian status.
- (4) Notwithstanding anything in subsections (1), (2) and (3), those subsections shall, in relation to a child born out of wedlock have effect subject to the following modifications—
- (a) where the child is subsequently legitimated by reason of the operation of the Legitimacy Act 1933, and has not yet acquired Bermudian status by virtue of subsections (1), (2) or (3), the date of the subsequent legitimation shall for the purposes of subsections (1), (2) or (3), be treated as if it were the date of the birth of the child and the status and domicile of the father of the child may then be taken into account in determining whether or not the child has acquired or as the case may be, may acquire, Bermudian status;
 - (b) where the child is not subsequently legitimated, the provisions of subsections 16(2)(b) and 16(2A) shall be taken into account in determining whether or not the child may acquire Bermudian status, and for the purposes of this paragraph, the status and domicile of the parent at the time of the child's birth may then be taken into account in determining whether or not the child has acquired or, as the case may be, may acquire, Bermudian status.
 - (c) where the child has not been subsequently legitimated and the provisions of section 16(2)(b) and 16(2A) are not applicable, the status or

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domicile of the mother shall alone be regarded in determining whether or not the child may acquire Bermudian status.

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

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

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

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

(9) Where—

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

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

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

Amends section 20 of principal Act

4 Section 20 of the principal Act is amended by inserting next after subsection (1) the following new subsection—

" (1A) A person referred to in section 16(2B) shall, from and after the day that he becomes a Commonwealth citizen possess Bermudian status."

Amends section 104 of principal Act

5 Section 104 of the principal Act is amended in paragraph (c) by deleting the words "illegitimate child" and substituting the words "child born out of wedlock".

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Consequential amendments

6 The following consequential amendments are made to the principal Act—

- (a) in section 17, in subsection (2), delete the words "subsections (5) and (6)" and substitute the words "subsections (8) and (9)"; and
- (b) in section 22, in subsection (1)(d) insert next after the words "adopted child" the words "or child born out of wedlock".