

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

INCENTIVES FOR JOB MAKERS ACT 2013

TABLE OF CONTENTS

1	Citation
2	Amends section 31A of the Bermuda Immigration and Protection Act 1956
3	Amends section 31AB of the Bermuda Immigration and Protection Act 1956
4	Amends definition of “Minister” in the Economic Development Act 1968
5	Amends section 3B of the Economic Development Act 1968
6	Amends section 5 of the Economic Development Act 1968
7	Commencement

WHEREAS, further to the Incentives for Job Makers Act 2011, it is expedient to amend the Bermuda Immigration and Protection Act 1956 and the Economic Development Act 1968 to modify the concessions offered to important businesses that are critical to the economy;

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 may be cited as the Incentives for Job Makers Act 2013.

Amends section 31A of the Bermuda Immigration and Protection Act 1956

2 (1) In section 31A(1) of the Bermuda Immigration and Protection Act 1956, delete paragraph (a) and substitute—

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

(i) been granted exemption; or

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

INCENTIVES FOR JOB MAKERS ACT 2013

(2) In section 31A(2) of that Act, delete “2005” in both places, and substitute “2002”.

Amends section 31AB of the Bermuda Immigration and Protection Act 1956

3 In section 31AB(1) of the Bermuda Immigration and Protection Act 1956, delete “\$120,000” and substitute “\$25,000”.

Amends definition of “Minister” in the Economic Development Act 1968

4 (1) In section 1 of the Economic Development Act 1968, delete the definition of “Minister” and substitute—

“ “Minister” means the Minister responsible for the Bermuda Economic Development Corporation;”.

(2) The following amendments are made to that Act in consequence—

- (a) delete the words “responsible for the Bermuda Economic Development Corporation” in sections 2(b) and 2A(1);
- (b) in sections 4(1) and 6, delete “Minister” and substitute “Minister of Finance”;
- (c) in section 7, after “Minister” insert “who gave the direction,”.

Amends section 3B of the Economic Development Act 1968

5 In section 3B(2) of the Economic Development Act 1968—

- (a) in paragraph (a), delete “25” and substitute “10”;
- (b) at the end of paragraph (b) insert “subject to the availability of suitably qualified Bermudians”;
- (c) in paragraph (e), delete “Department of Labour and Industrial Relations” and insert “Department of Workforce Development”.

Amends section 5 of the Economic Development Act 1968

6 In section 5 of the Economic Development Act 1968—

(a) delete subsection (2) and substitute—

“(2) Where the Minister receives an application in pursuance of subsection (1), he shall review the application and make a determination after consultation with the Minister responsible for immigration.”;

(b) delete subsection (3)(a)(iv) and substitute—

“(iv) the continued presence of jobs in Bermuda with the company for persons with Bermudian status must be dependent on the applicant remaining in Bermuda; and”;

INCENTIVES FOR JOB MAKERS ACT 2013

- (c) in subsection (4), delete “a maximum of five employees” and substitute “the maximum permitted number of employees”;
- (d) after subsection (4) insert—

“(4A) In subsection (4), “the maximum permitted number of employees” means such number as the Minister shall specify in Guidelines issued for the purposes of this section, after consultation with the Minister responsible for immigration; and the Minister may specify different maximum numbers for different categories of company depending on—

- (a) the size of the company;
- (b) the significance of the company to the economy of Bermuda;
- (c) the existing or likely economic situation in Bermuda;
- (d) the protection of local interests; and
- (e) the interests of the community as a whole.”

Commencement

7 This Act comes into operation on such date as the Minister responsible for immigration may appoint by notice in the Gazette.

INCENTIVES FOR JOB MAKERS BILL 2013

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Bermuda Immigration and Protection Act 1956 (“BIPA”) and the Economic Development Act 1968 (“EDA”) to modify the incentives offered to important businesses that are critical to the economy, which were introduced by the Incentives for Job Makers Act 2011 (“the 2011 Act”).

Clause 1 is self-explanatory.

Clause 2, subsection (1) provides for an application for a permanent resident’s certificate (“PRC”) under section 31A of BIPA to be made after or at the same time as an application under section 5 of EDA for exemption from Part V of BIPA. The effect of subsection (2) is that persons who have fallen within section 31A for at least ten years since 2002 will be able to apply under this section for PRC without waiting until 2015 (as provided by the 2011 Act).

Clause 3 reduces the fee payable under section 31AB of BIPA for PRC from \$120,000 to \$25,000.

Clause 4 amends the definition of “Minister” in section 1 of EDA to clarify that it means the Minister responsible for the Bermuda Economic Development Corporation, and makes consequential amendments to that Act.

Clause 5, paragraph (a) amends section 3B(2)(a) of EDA so that applications can be made under that section by companies employing at least ten Bermudians (the 2011 Act required a minimum of 25 Bermudian employees). Paragraph (b) clarifies that the requirement in section 3B(2)(b) to employ Bermudians at all levels is subject to the availability of suitably qualified Bermudians. Paragraph (c) corrects an outdated reference to the Ministry of Labour and Industrial Relations.

Clause 6, paragraph (a) replaces subsection (2) of section 5 of EDA to provide that an application under that section will be determined by the Minister after consultation with the Minister responsible for immigration. Paragraph (b) replaces subsection (3)(a)(iv) to clarify that it is the retention of jobs with the company in Bermuda for Bermudians (and not necessarily the company itself, as provided by the 2011 Act) which is critical for an application. Paragraphs (c) and (d) remove the limit of five exempt employees of a company at any one time which was in subsection (4), and provide flexibility as to the maximum permitted number of employees by way of Guidance issued by the Minister, including the option to set different maximum numbers for different categories of company depending on the matters set out in new subsection (4A).

Clause 7 provides for commencement.