



BERMUDA

ECONOMIC DEVELOPMENT ACT 1968

1968 : 20

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[preamble and words of enactment omitted]

[NB formerly "Industrial Development Act 1968". Title amended by 2007:10 s.2 effective 29 March 2007]

Interpretation

- 1 In this Act, unless the context otherwise requires—
- “approved scheme” means a scheme for the economic development of any part of Bermuda which has been approved in accordance with section 2;

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“economic empowerment zone” means an area of land which is designated by the Minister under section 2A;

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

“undertaking” means any person operating a commercial venture who is developing, constructing or operating any project to which an approved scheme relates or who has agreed with the Government so to develop, construct or operate any such project.

[NB References throughout to “Governor” substituted by “Minister” by 2007:10 s.10 effective 29 March 2007]

[section 1 “approved scheme” substituted, “economic empowerment zone” and “Minister” inserted, by 2007:10 s.3 effective 29 March 2007; “Minister” deleted and substituted by BR 5 / 2011 para. 5 effective 25 February 2011; “Minister” deleted and substituted by BR 6 / 2011 para. 2 effective 11 March 2011; section 1 “approved scheme” substituted, “economic empowerment zone” and “Minister” inserted, by 2007:10 s.3 effective 29 March 2007; “Minister” deleted and substituted by BR 5 / 2011 para. 5 effective 25 February 2011; “Minister” deleted and substituted by BR 6 / 2011 para. 2 effective 11 March 2011; “Minister” deleted and substituted by 2013 : 38 s. 4 effective 17 December 2013]

Approved scheme

2 A scheme for the economic development of any part of Bermuda may be approved—

- (a) in principle by both Houses of the Legislature; or
- (b) in the case of an economic empowerment zone, in writing by the Minister.

[section 2 repealed and replaced by 2007:10 s.4 effective 29 March 2007; amended by BR 6 / 2011 para. 2 effective 11 March 2011; section 2 paragraph (b) amended by 2011 : 28 s. 14 effective 4 August 2011; section 2 paragraph (b) amended by 2013 : 38 s. 4 effective 17 December 2013]

Designation by Minister of economic empowerment zone

2A (1) The Minister may by order published in the Gazette designate an area of land to be an economic empowerment zone.

(2) An order made under subsection (1) shall have attached thereto a map which shows the area of land which constitutes the economic empowerment zone outlined in red.

(3) An order made under this section shall be subject to the affirmative resolution procedure.

[section 2A inserted by 2007:10 s.5 effective 29 March 2007; subsection (1) amended by BR 6 / 2011 para. 2 effective 11 March 2011; subsection (1) amended by 2011 : 28 s. 14 effective 4 August 2011; subsection (1) amended by 2013 : 38 s. 4 effective 17 December 2013]

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Orders designating economic empowerment zones to be available for public scrutiny
2B Every order made under section 2A shall be deposited at the offices of the Bermuda Economic Development Corporation and shall be available for inspection by the public at all reasonable hours.

[section 2B inserted by 2007:10 s.5 effective 29 March 2007; section 2B amended by 2011 : 28 s. 14 effective 4 August 2011]

Concessions to undertakings

3 Provision may be made for all or any of the concessions specified in this Act to be accorded to an undertaking which has agreed to implement, or which is implementing, an approved scheme as hereinafter provided.

Concessions to businesses and property owners in an economic empowerment zone

3A Where a business or property is situated in an economic empowerment zone, all or any of the concessions specified in this Act may be granted to the business or owner of such property where—

- (a) an approved scheme exists in respect of the economic empowerment zone; and
- (b) the owner of the business or property has agreed to implement or is implementing the approved scheme.

[section 3A inserted by 2007:10 s.5 effective 29 March 2007]

Concessions for certain businesses which employ and train Bermudians

3B (1) The Chief Executive of a company may apply to the Minister, for the company to be designated as a company whose senior executive employees can apply for exemption from Part V of the Bermuda Immigration and Protection Act 1956, under section 5 of this Act.

(2) The Minister may designate a company as a company whose senior executive employees can apply for exemption from Part V of the Bermuda Immigration and Protection Act 1956, under section 5 of this Act, where the Minister is satisfied that the company—

- (a) has at least 10 persons with Bermudian status on its staff;
- (b) has persons with Bermudian status employed at all levels in the company, subject to the availability of suitably qualified Bermudians;
- (c) provides entry-level positions for persons with Bermudian status;
- (d) has programmes in place for developing and promoting persons with Bermudian status; and
- (e) exercises employment practices which have not regularly required the intervention of labour relations officers of the Department of Workforce Development or the Human Rights Commission.

(3) The Minister may after taking into consideration—

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- (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) generally, the interests of the community as a whole,

lower the minimum number of persons with Bermudian status a company should have on its staff for the purposes of subsection (2).

[Section 3B inserted by 2011 : 41 s. 2 effective 1 January 2012; subsection (2) amended by 2013 : 38 s. 5 effective 17 December 2013]

Minister may direct that payment of customs duties be deferred

4 (1) The Minister of Finance may direct that the payment of customs duties on all or any of the articles to which this section applies shall be deferred for such period, not exceeding five years, as may be specified in the direction.

(2) Any direction given under this section may provide for the payment of customs duties by instalments commencing on the date of the expiration of the period of deferment specified in the direction:

Provided that the period over which payment by instalments may be permitted in any direction shall not exceed five years.

(3) The Revenue Act 1898 *[title 14 item 10]*, shall be read subject to any direction given under this section.

(4) The articles to which this section applies are all goods, materials, merchandise and construction and other equipment used in the construction or development of the project to which an approved scheme relates, including the equipment and furnishings therefor, as may be specified in the direction given under this section, being articles imported and used for those purposes before the approved scheme becomes operational.

[section 4 amended by 2007:10 effective 29 March 2007; subsection (1) amended by 2013 : 38 s. 4 effective 17 December 2013]

Senior executive employees of designated companies may be exempted from Part V of the Bermuda Immigration and Protection Act 1956

5 (1) Where a company is designated by the Minister under section 3B(2), a person in a senior executive position in that company shall be eligible to apply to the Minister, to be exempted from Part V of the Bermuda Immigration and Protection Act 1956.

(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.

(3) A determination made under subsection (2) shall be dependent upon—

- (a) the applicant meeting the following criteria—

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- (i) the company in which the applicant is employed must be a company that has been designated under section 3B(2);
 - (ii) the applicant must be a person in a senior executive position in that company;
 - (iii) the applicant must be responsible for making decisions that are critical to the continuity of the company in Bermuda;
 - (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
 - (v) the applicant's continued employment in the company designated under section 3B(2), for the duration of the exemption; and
- (b) the company in which the applicant is working at the time of an application in pursuance of subsection (1), continuing to meet the conditions under section 3B(2)(a) to (e) for the duration of the exemption.

(4) A company designated under section 3B(2), may have up to the maximum permitted number of employees exempted from Part V of the Bermuda Immigration and Protection Act 1956 at any one time.

(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.

(5) An exemption shall not be granted under subsection (2) in respect of any person, unless the Minister is satisfied that there is no person with Bermudian status in Bermuda with sufficient qualifications and experience available to undertake the work concerned, efficiently.

(6) Where by virtue of a determination made under subsection (2), a person is exempted from Part V of the Bermuda Immigration and Protection Act 1956 for any period of time, that person shall, for the purposes of section 31A of that Act, be deemed to be eligible to apply under that section for a permanent resident's certificate, provided the person satisfies the requirements under section 31A(1) of that Act.

[Section 5 subsection (1) amended by 2007:10 s.7 effective 29 March 2007; Section 5 repealed and substituted by 2011 : 41 s. 3 effective 1 January 2012; subsection (2) deleted and substituted, subsections (3) and (4) amended and subsection (4A) inserted by 2013 : 38 s. 6 effective 17 December 2013]

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Minister may approve lease of land required for approved scheme

6 Any undertaking which is a corporation may, with the prior written consent of the Minister of Finance, hold or acquire any land developed or to be developed in accordance with an approved scheme by way of lease or tenancy agreement for a term not exceeding ninety-nine years.

[Section 6 substituted by 2007:16 s.22 & Sch effective 22 June 2007; amended by 2013 : 38 s. 4 effective 17 December 2013]

Revocation of direction

7 Any direction given under this Act may, for good cause, be revoked by the Minister who gave the direction, and, in that event, shall cease to have effect as from the date of its service on any undertaking, business or owner of property affected thereby or as from such later date as may be specified in the revocation:

Provided that no such direction shall be revoked until the undertaking, business or owner of property affected thereby has been given an opportunity of making representations in connection with the proposed revocation.

[section 7 amended by 2007:10 s.9 effective 29 March 2007; amended by 2013 : 38 s. 4 effective 17 December 2013]

Evidence

8 In all proceedings a certificate purporting to be under the hand of the Secretary to the Cabinet to the effect that a direction has been given under this Act, or revoked, and setting out the terms of the direction or revocation, and the date thereof, shall be receivable in evidence and shall be prima facie evidence of the fact that such direction has been so given, or revoked, and the terms of the direction or revocation, as the case may be, and the date thereof.

[Assent Date: 25 January 1968]

[Amended by:

1968 : 140

1970 : 178

2007 : 10

2007 : 16

BR 5 / 2011

BR 6 / 2011

2011 : 28

2011 : 41

2013 : 38]