



BERMUDA

ECONOMIC DEVELOPMENT AMENDMENT ACT 2019

2019 : 38

TABLE OF CONTENTS

1	Citation
2	Amends section 1
3	Repeals and replaces section 2
4	Inserts sections 2AA to 2AC
5	Amends section 6
6	Amends Companies Act 1981
7	Amends Bermuda Immigration and Protection Act 1956
8	Application to certain developments
9	Commencement

WHEREAS it is expedient to amend the Economic Development Act 1968 in relation to approved schemes, and to make a consequential amendment to the Bermuda Immigration and Protection Act 1956 and the Companies Act 1981;

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 Economic Development Amendment Act 2019.

Amends section 1

2 In section 1 of the Economic Development Act 1968 ("the principal Act"), each in its alphabetical place, insert—

ECONOMIC DEVELOPMENT AMENDMENT ACT 2019

“approved residential scheme” means an approved scheme consisting wholly or partly of residential valuation units in an economic empowerment zone;

“residential valuation unit” has the meaning given in section 72(1) of the Bermuda Immigration and Protection Act 1956;”.

Repeals and replaces section 2

3 Section 2 of the principal Act is repealed and replaced as follows—

“Approved schemes

2 Subject to section 2AA, a scheme for the economic development of any part of Bermuda may be approved by the Minister by order, subject to the negative resolution procedure.”.

Inserts sections 2AA to 2AC

4 After section 2 of the principal Act insert—

“Application for approval of scheme

2AA (1) Application for a scheme to be approved under this Act may be made in writing to the Minister, and the application shall include—

- (a) the name of the owner and developer of the proposed development;
- (b) details of the proposed scheme, and confirmation—
 - (i) that planning permission in principle has been granted under the Development and Planning Act 1974; or
 - (ii) that an application has been made for a special development order under section 15 of that Act;
- (c) details of the holdings and business interests of the owner and developer;
- (d) statements of the business history of the owner and developer for the previous five years;
- (e) a business plan, and such information as may be necessary to satisfy the Minister as to the financial viability of both the developer and the development;
- (f) such other information as the Minister may reasonably require.

(2) The Minister may issue policy guidelines regarding the matters that he may take into account when considering an application under this section.

(3) Guidelines issued under this section shall be published in such manner as the Minister thinks fit, but shall not be subject to the Statutory Instruments Act 1977.

ECONOMIC DEVELOPMENT AMENDMENT ACT 2019

Purchase of units in approved residential scheme by restricted persons

2AB (1) Notwithstanding the provisions of Part VI of the Bermuda Immigration and Protection Act 1956 (protecting land in Bermuda for Bermudians), and regulations made under that Act, a restricted person may hold and acquire one or more residential valuation units in an approved residential scheme without any of the restrictions that would otherwise be imposed by or under that Act.

(2) In this section, “restricted person” has the meaning given in section 72 of the Bermuda Immigration and Protection Act 1956.

Approval of residential scheme shall not be withdrawn

2AC Once the Minister has granted approval of a scheme which is an approved residential scheme, the status of the scheme as an approved residential scheme under this Act shall not be withdrawn.”.

Amends section 6

5 The provisions of section 6 of the principal Act shall become subsection (1), and after that subsection insert—

“(2) Subsection (1) does not apply in relation to the holding or acquisition of land consisting only of one or more residential valuation units in an approved residential scheme by a local company or an exempted company under sections 120 and 129 of the Companies Act 1981 respectively.”.

Amends Companies Act 1981

6 (1) In section 120 of the Companies Act 1981—

- (a) in subsection (5), delete “, provided that it does not exceed in the whole the limit of the company’s land holding powers specified in its memorandum”;
- (b) insert after subsection (5)—

“(5A) A local company that has a physical presence in Bermuda may, with the previous sanction in each case of the Minister but not otherwise, take by way of lease or letting agreement for a term not exceeding 131 years, land consisting only of one or more residential valuation units in an approved residential scheme. ”;

- (c) in subsection (6), delete “subsection (5)” and substitute “subsections (5) and (5A)”; and
- (d) insert after subsection (6)—

“(7) In subsection (5A)—

- (a) “residential valuation unit” has the meaning given in section 72(1) of the Bermuda Immigration and Protection Act 1956;

ECONOMIC DEVELOPMENT AMENDMENT ACT 2019

- (b) “approved residential scheme” has the meaning given in section 1 of the Economic Development Act 1968.”.
- (2) In section 129 of the Companies Act 1981—
 - (a) insert after subsection (1)(aa)—
 - “(ab) acquire or hold land consisting only of one or more residential valuation units in an approved residential scheme, unless—
 - (i) the company has a physical presence in Bermuda and the Minister has in each case given his prior sanction to the acquisition or holding of the land; and
 - (ii) the land is acquired or held by way of lease or tenancy agreement for a term not exceeding 131 years;”;
 - (b) in subsection (1AA), delete “subsection (1)(aa)(i)” and substitute “subsections (1)(aa)(i) and (1)(ab)”;
 - (c) insert after subsection (1AA)—
 - “(1AB) In subsection (1)(ab)—
 - (a) “residential valuation unit” has the meaning given in section 72(1) of the Bermuda Immigration and Protection Act 1956;
 - (b) “approved residential scheme” has the meaning given in section 1 of the Economic Development Act 1968.”.

Amends Bermuda Immigration and Protection Act 1956

7 After section 74 of the Bermuda Immigration and Protection Act 1956, insert—

“Approved residential schemes

74A (1) This Part does not apply in relation to the holding or acquisition of land consisting only of one or more residential valuation units in an approved residential scheme by a restricted person.

(2) In this section, “approved residential scheme” has the meaning given in section 1 of the Economic Development Act 1968.”.

Application to certain developments

8 A development consisting wholly or partly of residential valuation units in an economic empowerment zone which, immediately before the commencement of this Act, was either—

- (a) approved as an approved scheme under the principal Act; or
- (b) implementing an approved scheme in the economic empowerment zone in accordance with the principal Act,

ECONOMIC DEVELOPMENT AMENDMENT ACT 2019

shall be deemed to be an approved residential scheme, so that the amendments made by this Act to the principal Act, the Bermuda Immigration and Protection Act 1956, and the Companies Act 1981 shall apply accordingly.

Commencement

9 (1) Subject to subsection (2), this Act shall come into effect on such day as the Minister responsible for the Bermuda Economic Development Corporation may appoint by notice in the Gazette.

(2) Section 6(1)(a) of this Act shall be deemed to have come into effect on the date that the Companies Amendment Act 2014 came into effect.

[Assent Date: 08 October 2019]

[Operative Date: 01 November 2019]