

Corporate Immigration 2021

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Corporate Immigration 2021

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Lexology Getting The Deal Through is delighted to publish the tenth edition of *Corporate Immigration*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on Canada, Germany, Nigeria and the United States.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Howard Greenberg and Naumaan Hameed of KPMG Law, for their assistance with this volume.



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GENERAL FRAMEWORK

Legislation

- 1 | What primary and secondary legislation governs immigration in your jurisdiction?

The Bermuda Immigration and Protection Act 1956 (the Act) is the primary legislation in Bermuda supported by various regulations. Additional policies impacting work permits are found in the Work Permit Policy (2015) (the Policy) issued by the Department of Immigration.

The Act has undergone certain reform following the appointment of a consultative immigration reform working group that was 'tasked with recommending the principles by which new immigration policies will affect legislation concerning: mixed families, permanent resident certificates and Bermudian status'.

In addition to the primary legislation, the Quarantine Act 2017 and Public Health Act 1949 control the movement across borders in the emergency circumstances and is currently relevant in light of the current covid-19 pandemic. The Quarantine (Travel Ban) (Order 2020) was implemented this year, preventing certain people from entering the country based on covid-19 protection measures.

Restrictions on cross-border movement

- 2 | What laws, regulations and policies control movement across borders in emergency circumstances such as a pandemic. How have the border restrictions been implemented?

The Quarantine Act 2017 and Public Health Act 1949 control the movement across borders in the emergency circumstances and is currently relevant in light of the current covid-19 pandemic. The Quarantine (Travel Ban) (Order 2020) was implemented this year which prevents certain people from entering the country based on covid-19 protections.

International agreements

- 3 | Has your jurisdiction concluded any international agreements affecting immigration (eg, free trade agreements or free movement accords)?

The 1982 Accord for Portuguese Contract Workers held between the governments of Bermuda and Portugal governs the conditions and terms of employment of Portuguese nationals in Bermuda.

Regulatory authorities

- 4 | Which government authorities regulate immigration and what is the extent of their enforcement powers? Can the decisions of these authorities be appealed?

The Ministry of National Security collectively oversees immigration for Bermuda through the Customs Department and the Department of

Immigration. The Customs Department monitors and controls the cross-border movement of goods and people at the various points of entry into Bermuda.

The Department of Immigration administers and enforces legislation governing immigration through an appointed Immigration Board, which is led by either the Minister of National Security, at his or her discretion, or the chairman of the board. Grievances against the Immigration Board can be lodged with the Immigration Appeal Tribunal.

The Immigration Appeal Tribunal, under the Act, has all the powers of a court of summary jurisdiction. Further right to appeal any decision of the Tribunal may be filed with the Supreme Court within 21 days.

Government policy

- 5 | In broad terms what is your government's policy towards business immigration?

The government of Bermuda allows business immigration. The mission of the Department of Immigration, that operates through the Ministry of Home Affairs, is to 'improve the economy by addressing the needs of the local and international business community and the career aspirations of Bermudians'.

Although no new changes have been introduced to the Policy by the current government, a more stringent interpretation is being adopted towards the implementation of the Policy ensuring the rights of Bermudians are protected.

The Act requires that all non-Bermudians must obtain specific permission (by way of work permits) if they are to engage in a gainful occupation in Bermuda. 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 permanent resident certificate (PRC) holder who has applied for the role. Additional guidance regarding the requirements that non-Bermudians must meet to obtain permission to work in Bermuda is set out in the Policy. The Policy contains various protections for the Bermudian workforce, including, for example, requirements to ensure that employers have conducted bona fide searches for qualified locals to fill the position.

The Department of Immigration cannot force an employer to hire Bermudians, spouses of Bermudians or PRC holders. It can only prevent the hiring of foreign nationals by refusing to grant a work permit – if the requirements are not met.

SHORT-TERM TRANSFERS

Visas

- 6 | In what circumstances is a visa necessary for short-term travellers? How are short-term visas obtained?

Here, a visa is interpreted as work-permit permission.

Short-term business travellers under the Work Permit Policy (2015) (the Policy) will generally fall into one of three categories:

- a business visitor who is a non-resident, who visits Bermuda to undertake certain limited business purposes;
- a short-term work-permit holder, who is employed to work in Bermuda for a period of up to six months; or
- a periodic work-permit holder, who is someone engaged by an employer who will make multiple visits to the island (for no more than 30 days per visit, with a maximum of 180 days per year).

Work permits are obtained by application to the Department of Immigration for the permit that best suits the needs and requirements of the traveller.

Restrictions

7 | What are the main restrictions on a business visitor?

Business visitors do not need work-permit permissions if they have a return ticket, their stay does not exceed 21 days and they are undertaking certain types of activities. A full list of those activities is included in the Policy. By way of example, a short-term business traveller visiting Bermuda for less than 21 days can do the following without work-permit permission:

- attend broker, director or shareholder meetings;
- attend general business meetings with a Bermuda company where the business traveller is not being remunerated by the Bermuda company;
- present at business seminars not open to the general public;
- attend a job interview;
- attend a conference;
- make presentations in response to a request for a proposal if not being remunerated; and
- international dispute-resolution work carried out by lawyers, clients, witnesses, experts and administrative support professionals.

This is not an exhaustive list and advice must be sought to determine if a business traveller can enter Bermuda without work-permit permissions. An extension to the 21 days can be obtained under the Policy.

Short-term work permits or periodic work permits are required by those individuals whose activities in Bermuda fall outside the permissible activities for a business visitor (as summarised above) or are required to last more than 21 days or both.

Short-term work-permit applications are accepted for three to six months and may be extended for up to a further six months. The primary obstacle to obtaining a short-term work permit is the requirement to advertise and vet qualified Bermudians, spouses of Bermudians and PRC holders. However, employers may be exempted from the requirement to advertise in certain circumstances (eg, where the intended work-permit holder works for an overseas subsidiary or affiliate of the Bermuda employer). The Policy should be consulted for further details.

A periodic work-permit holder can stay in Bermuda to conduct work that he or she is contracted to provide to the employer for a period of no greater than 30 days per visit. Periodic work-permit holders are not permitted to be in Bermuda for more than a total of 180 days per calendar year. This type of permit is for individuals who work for an overseas office of the Bermuda company or for an individual who is a service provider contracted to work for the Bermuda company.

There are no restrictions concerning remuneration for short-term work-permit holders. Permissible activities are limited to those duties that the short-term work-permit holder is contracted to perform that were detailed in the work-permit application.

Short-term training

8 | Is work authorisation or immigration permission needed to give or receive short-term training?

An individual can enter Bermuda for up to 21 business days without a work permit for training in techniques and work practices, provided that the training is conducted by a company affiliated by an ownership relationship and that the training is limited to observation, familiarisation and classroom instruction. Training in other circumstances will require immigration permission (either via a short-term work permit or a periodic work permit).

Transit

9 | Are transit visas required to travel through your country? How are these obtained? Are they only required for certain nationals?

Since 1 March 2014, Bermuda entry visas and visa waivers are not required for tourist and business visitors and work-permit holders. However, travellers who require a multi re-entry visa (MRV) for Canada, the United Kingdom or the United States will need to present the valid MRV upon arrival in Bermuda.

Visa waivers and fast-track entry

10 | Are any visa waiver or fast-track entry programmes available?

There are no visa requirements in Bermuda; therefore, no visa waivers exist. Based on the processing stipulations in the Policy, there are no fast-track entry programmes available.

LONG-TERM TRANSFERS

Categories

11 | What are the main work and business permit categories used by companies to transfer skilled staff?

The primary, non-temporary business permit categories are as follows.

Standard work permits

The purpose of a standard work permit is to allow all organisations in Bermuda to employ foreign nationals provided that 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 a one- to five-year period.

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. Closed-category jobs include, but are not limited to:

- labourers;
- salespeople; and
- receptionists.

Restricted-category jobs include, but are not limited to:

- bank tellers;
- bartenders;
- administrative assistants;
- general masons; and
- photographers.

These categories are generally designed to protect the local workforce.

Global work permits

The global work permit allows 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 only if the position being filled is not a pre-existing position. Global work permits are granted for periods similar to standard permits (ie, one to five years). However, if an employer wishes for a global work-permit holder to continue working in Bermuda after the expiry of the worker's global work permit, they will be required to apply for a standard work permit.

Applications will be automatically approved in respect of individuals who have been employed for longer than one year and who earn a gross salary greater than BM\$125,000 per year. Applications in respect of individuals employed for less than one year or those earning less than BM\$125,000, or both, will be considered on a case-by-case basis and approval will substantially depend on demonstrating that the addition of the global work-permit holder will add value to Bermuda. A global work permit does not apply to positions listed in the closed or restricted categories.

New-business work permit

A new-business work permit allows an exempted company (per the definition in the Companies Act 1981) that is new to Bermuda to receive automatic approval of work permits for the first six months of obtaining the first new-business permit. There is no need to advertise the positions (which is the requirement of the standard work permit). New section 114B companies to Bermuda (per the ability to be licensed under section 114B of the Companies Act) will be granted new-business work permits; however, these will be limited to five new-business work permits within the first six 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 trainee position or specified in a closed or restricted category. However, if the new-business permit holder falls within a job category where a statutory council must be consulted, this must still be done.

Fintech business work permit

A new immigration policy for fintech start-up companies allows a fintech company that is new to Bermuda to receive automatic approval of five work permits within the first six months of obtaining the first fintech business work permit. One significant caveat to this new policy is the requirement that 'for a fintech business to be eligible for automatic approvals under this policy they must also present plans for the hiring, training and development of Bermudians in entry level or trainee positions'. Standard work-permit policies apply after the initial terms of the fintech business permit expires.

Procedures

12 | What are the procedures for obtaining these permissions? At what stage can work begin?

Standard work-permit applications require the employer (who must be a Bermuda-based individual or company) to:

- advertise the vacancy in Bermuda as per the requirements in the Work Permit Policy (2015) (the Policy);
- properly consider any Bermudian, spouse of Bermudian or PRC holder who meets the minimum qualifications of said advertisement;
- with the assistance of the work-permit applicant, complete the relevant work-permit application form and submit all necessary and relevant documentation; and
- where necessary, send the application to the relevant statutory body regulating the profession of the applicant (eg, doctors and lawyers).

Work cannot begin until the application has been approved by the Department of Immigration.

Concerning the standard work permit, the global work permit and the new-business permit, if employers can qualify for the waiver of advertising per the Policy, the first two steps identified above need not be followed. The employer only needs to complete the relevant work-permit application form and submit all necessary documentation.

Period of stay

13 | What are the general maximum (and minimum) periods of stay granted under the main categories for company transfers?

This is one to five years. Renewal permits can be applied for when standard work permits expire – only if all the relevant requirements of the Policy continue to be met. The general restriction of work-permit holders not working in Bermuda for longer than six years was removed by the government.

Processing time

14 | How long does it typically take to process the main categories?

The Policy states that employers can expect standard work permits to take 20 working days to process, and global or new-business work permits to take 10 working days. These periods are subject to change if the Department of Immigration experiences a high volume of submissions (eg, the current trend indicates that standard work permits take up to 60 days to process).

Staff benefits

15 | Is it necessary to obtain any benefits or facilities for staff to secure a work permit?

Employers and employees have certain obligations concerning social-insurance contributions, payroll tax, pension and medical insurance. Employers must ensure that the employee has the legislative minimum health-insurance cover (although it is common for corporate employers to provide enhanced insurance coverage), pension and social insurance. Accommodation is optional for employers to arrange and pay for.

Assessment criteria

16 | Do the immigration authorities follow objective criteria, or do they exercise discretion according to subjective criteria?

The Policy is fairly detailed and provides certain objective criteria for eligibility for the various applications. However, the Policy cannot be described as entirely objective.

The Policy states that the Minister may exercise his or her discretion per the immigration legislation to waive specific policies upon written request or justification for the same. It further expressly states that the Minister 'has the right to create, modify, eliminate and make exceptions to any immigration policy'. Where individuals or employers believe that the circumstances of a situation warrant special consideration of the Minister, they should justify their case in writing. This is particularly the case in respect of specialised roles where there is a known shortage of Bermudians, spouses of Bermudians and PRC holders. The Minister has no discretion to waive any fees. In this way, there is flexibility within the Policy to accommodate complicated cases.

In practice, the Minister and the Immigration Board (appointed by the Minister), which reviews the applications, possess discretion concerning the interpretation of various issues. For example, if a Bermudian, spouse of a Bermudian or PRC holder has applied for

the job upon advertising and has been refused the job in favour of the work-permit applicant, the Board and the Minister will exercise subjective analysis of whether the consideration of the Bermudian, spouse of Bermudian or PRC holder was fair.

If an application is refused, it can be appealed to the Minister.

High net worth individuals and investors

17 | Is there a special route for high net worth individuals or investors?

Under the global entrepreneur work permit, the Minister will grant a permit to an individual for one year to work and reside in Bermuda (in respect of an exempted company or a section 114B start-up), if he or she is satisfied that the applicant is a bona fide investor or business person that is likely to domicile a company in Bermuda. The work activities may include:

- business planning;
- seeking appropriate government or regulatory approval;
- meeting compliance or financial requirements; or
- raising capital.

High net worth individuals can apply for permission to reside on an annual basis but such permission does not permit them to work in Bermuda.

18 | Is there a special route (including fast track) for high net worth individuals for a residence permission route into your jurisdiction?

There is no special route for high net worth individuals for a Bermudian residence permit.

Economic citizenship and investment visas were initially investigated and discussed by the previous government as an initiative to attract foreign investment in Bermuda but such discussions have not progressed further.

Highly skilled individuals

19 | Is there a special route for highly skilled individuals?

There is no special application for highly skilled individuals. Employers of highly skilled individuals may, however, be able to seek a waiver to the requirement to advertise the position on the following basis:

- that the applicant is uniquely qualified for the position;
- the position would not exist in Bermuda if it were not for the applicant filling the job;
- the success of the business would be detrimentally affected if the person were to leave the business; or
- the employee is integral and the key to income generation.

Ancestry and descent

20 | Is there a special route for foreign nationals based on ancestry or descent?

There is no special route for foreign nationals based on ancestry or descent. If an individual is deemed Bermudian, that person has the right to reside and work in Bermuda without limits. If an individual believes he or she may possess Bermudian status based on ancestry or descent, he or she can make a general enquiry application to determine if he or she is deemed to possess Bermudian status.

Minimum salary

21 | Is there a minimum salary requirement for the main categories for company transfers?

There is no minimum salary requirement for the main categories for company transfers. However, if the individual moving to Bermuda wishes to bring dependants to the country, there are minimum salary requirements that must be proven.

Upon application, sponsored dependants of the work-permit holder may be permitted to reside with the work-permit holder and seek employment provided that the sponsor submits proof of financial support for the sponsored dependents. The following thresholds must be demonstrated:

- a two-person household requires remuneration of BM\$60,000 per annum;
- a three-person household requires remuneration of BM\$100,000 per annum; and
- a household of four or more persons requires remuneration of BM\$125,000 per annum.

Resident labour market test

22 | Is there a quota system or resident labour market test?

There is no quota system in Bermuda.

All positions (unless the employer is eligible to seek a waiver to the requirement to advertise) must be advertised. If a Bermudian, spouse of a Bermudian or PRC holder applicant meets the requirements of the advertised position, the applicant should be interviewed. Results of any interviews must be included with the work-permit application submission.

Shortage occupations

23 | Is there a special route for shortage occupations?

All applications for work permits are processed through the normal channels whether there is a shortage in a particular field or not.

Other eligibility requirements

24 | Are there any other main eligibility requirements to qualify for work permission in your jurisdiction?

There are no other eligibility requirements apart from that set out in the relevant application forms and the Policy. These include, for example, advertising the position, and employers ensuring that there are no suitably qualified Bermudians, spouses of Bermudian or PRC holders to fill the position.

Third-party contractors

25 | What is the process for third-party contractors to obtain work permission?

Work permits must be obtained by the Bermuda employer. If someone is required to work as a contractor or consultant for another company or individual, that other company or individual must also apply for the work permit, identifying that the employee will be working as a contractor or consultant.

Recognition of foreign qualifications

26 | Is an equivalency assessment or recognition of skills and qualifications required to obtain immigration permission?

Formal assessments or testing to confirm skills and qualifications is not required. It is the responsibility of the employer to provide a written

declaration in the application form that they have thoroughly screened the applicant and to the best of their knowledge and belief, the applicant:

- is of good character;
- possesses the qualifications purported in the application;
- is in good health; and
- has no criminal record.

The Policy does, however, state that the Minister shall consult with the statutory body that regulates matters dealt with by that profession. A full list can be found in the Policy and includes, but is not limited to, statutory bodies relating to architects, lawyers, dentists, nurses, psychologists, accountants and engineers.

EXTENSIONS AND VARIATIONS

Short-term to long-term status

27 | Can a short-term visa be converted in-country into longer-term authorisations? If so, what is the process?

Tourists are unable to apply for a work permit while physically present in Bermuda. This does not prevent the tourist visitor from returning to his or her home country and thereafter applying for a Bermuda work permit.

A business visitor can apply for extensions beyond 21 days. This is done by way of application.

A business visitor can apply for a short-term work permit if it becomes obvious that the activities being conducted fall outside the activities permitted under the business-visitor policy. It would, however, be advisable for the employer to identify at the outset whether a short-term work permit is needed based on the anticipated activities.

After a short-term work permit for three, four, five or six months, 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.

A short-term work-permit holder can, by way of application, seek to obtain a standard work permit. This must be done within 45 days of obtaining the short-term work permit. An explanation must also be provided as to why the standard work-permit application was not made at the outset.

Long-term extension

28 | Can long-term immigration permission be extended?

Yes, indefinitely for up to five years with each application. There is no requirement to leave if all requirements on advertising are met upon renewal (or a waiver is sought).

Exit and re-entry

29 | What are the rules on and implications of exit and re-entry for work permits?

Persons with permission are required to carry the document granting that permission when they travel, otherwise, they may be subject to fines (however, they are not at risk of being denied entry into Bermuda).

Dependants must also carry re-entry documents when exiting and re-entering Bermuda.

Permanent residency and citizenship

30 | How can immigrants qualify for permanent residency or citizenship?

The Incentives for Job Makers Act 2013 and amendments to the Bermuda Immigration and Protection Act 1956 in 2013 sought to make it easier for companies to obtain work-permit exemptions for certain senior executives, and for certain senior executives to be eligible to apply for permanent residency.

The employing company must first obtain designation as a company whose senior executives can apply for an exemption. This involves showing:

- that the company has at least 10 Bermudians on its staff;
- that Bermudians are employed at all levels of the company; and
- that entry-level positions, development programmes and promotion possibilities are available for Bermudians.

Where a designation is granted to a company, a qualifying senior executive of that company is then eligible to apply for an exemption. The exemption application must demonstrate that:

- an applicant is indeed a person in a senior executive position;
- the applicant is responsible for making decisions that are critical to the continuity of the company in Bermuda;
- the continued presence of jobs with the company in Bermuda for Bermudians must be dependent on the applicant remaining in Bermuda;
- the applicant will continue to be employed in the company for the duration of the exemption; and
- the company must continue to meet the requirements of a designated company.

The PRC application costs BM\$50,000 for the executive and BM\$3,000 for each qualifying dependent.

The Repatriation and Mixed Status Families Bill was recently passed allowing for dependents and spouses of PRC holders to make an application for Permanent Residency Certificate.

End of employment

31 | Must immigration permission be cancelled at the end of employment in your jurisdiction?

Employers must submit a written notice of termination to the Department of Immigration within seven working days of the work-permit holder's last day of employment. The notice must identify, among other matters, the date on which the employee left, or is planning to leave the island and the reason for termination.

The employer must also return the work-permit paper document and the work-permit card to the Department of Immigration.

Employee restrictions

32 | Are there any specific restrictions on a holder of employment permission?

A holder of employment permission is restricted from undertaking any duties or responsibilities not expressly approved and noted on his or her work permit (eg, an insurance broker cannot start working as a paid photographer for his or her employer).

Work-permit holders can advance their professional development through further studies without obtaining permission.

Work-permit holders can be promoted. The employer must first obtain permission from the Department of Immigration. While the employer is not required to advertise the post externally before applying by letter for permission to promote or otherwise transfer an employee

internally, evidence of consideration of internal Bermudian, spouses of Bermudians and PRC holder candidates must be submitted to the Department.

The salary of a work-permit holder can be changed. The Work Permit Policy (2015) is silent regarding whether permission must be obtained regarding salary increases. The practical approach is that incremental salary adjustments do not require permission. Significant increases could be seen as a promotion and permission should be obtained.

A work-permit holder can work for an additional employer, but each employer must obtain a work permit for the individual. A work permit cannot be transferred to another employer (unless the reason for the transfer relates to a merger, acquisition or amalgamation – in which case, permission by way of the letter must be obtained). The new employer must apply for a separate work permit.

A work-permit holder can seek alternative employment without permission during the work permit. However, the work-permit holder is not normally permitted to change employers during the first two years of employment with an initial employer; thereafter, there is no limitation on the number of job changes.

DEPENDANTS

Eligibility

33 | Who qualifies as a dependant?

Spouses (same-sex or otherwise), long-term partners (same-sex or otherwise – an affidavit swearing to a genuine and subsisting relationship will be required) and dependent children (under 18 or up to 25 if in full-time education) qualify as dependants.

Extended-family applications can be made. However, because they fall outside the immigration policy, they are decided at the Minister's discretion on a case-by-case basis. These dependants must demonstrate they can independently financially support themselves or that the work-permit holder has sufficient finances to support the additional family member.

Conditions and restrictions

34 | Are dependants automatically allowed to work or attend school?

Spouses and partners of work-permit holders who receive re-entry documents are automatically granted permission to seek employment but are still subject to work-permit restrictions.

Dependants are permitted to attend school but permission to seek employment does not extend to children. Child dependants are required to make their application for permission to seek employment when they turn 18.

Access to social benefits

35 | What social benefits are dependants entitled to?

Children get the Health Insurance Plan, which is free basic health coverage.

OTHER REQUIREMENTS, RESTRICTIONS AND PENALTIES

Criminal convictions

36 | Are prior criminal convictions a barrier to obtaining immigration permission?

These are decided on a case-by-case basis. Factors considered include the severity and nature of the crime, number of convictions and how

recently the offence occurred. Spent convictions, such as driving violations, will not normally be a barrier to obtaining a work permit.

Penalties for non-compliance

37 | What are the penalties for companies and individuals for non-compliance with immigration law? How are these applied in practice?

Employers and employees are subject to fines, and cases of non-compliance may jeopardise an employer's future work-permit applications. Individuals may also have their work permits revoked and be subject to deportation.

The Chief Immigration Officer is empowered under the Bermuda Immigration and Protection Act 1956 (the Act) to impose civil penalties concerning contravention of work-permit requirements set out in the Act (eg, civil penalties (up to BM\$10,000) can be imposed on employers who abuse immigration policy). A decision of the Chief Immigration Officer may be appealed to the Supreme Court of Bermuda.

Language requirements

38 | Are there any minimum language requirements for migrants?

The Work Permit Policy (2015) states that persons coming to work in Bermuda under the Portuguese Accord, as well as those employed in the construction industry, are required to have a working knowledge of the English language.

Medical screening

39 | Is medical screening required to obtain immigration permission?

Employers of individuals coming to Bermuda for the first time are required to submit a medical certificate of good health. It is the responsibility of the employer to ensure that the applicant is in good health.

However, individuals who have resided for two months or more in a country on the World Health Organization's 'High Risk of TB' list must submit a certificate of general good health from a doctor, including an original chest X-ray, with the work-permit application.

Secondment

40 | Is there a specific procedure for employees on secondment to a client site in your jurisdiction?

There is no specific procedure. Employees on secondment must obtain a work permit before commencing a secondment in Bermuda. Generally, the company utilising the services of the seconded employee is responsible for obtaining the work permit.

UPDATE AND TRENDS

Key developments of the past year

41 | Are there any emerging trends or hot topics in corporate immigration regulation in your jurisdiction?

The government promotes Bermuda as a leading jurisdiction in the fintech industry. The use of fintech-business work permits has been promoted as an emerging trend in Bermuda.

CORONAVIRUS

42 | What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

The covid-19 pandemic has impacted corporate immigration. Bermuda entered into a State of Emergency on 1 April 2020 as a result of the pandemic. Emergency legislation was introduced including the Emergency Powers (Covid-19 Shelter in Place) Regulations 2020 to authorise a curfew and restrict the movement of the public. The curfew was replaced by a multi-phased re-opening policy. However, the restrictions put in place by the government placed unexpected pressures on businesses that resulted in layoffs and redundancies. This has had an impact on several work-permit renewals for non-professional work-permit holders. To date, Bermuda has managed the covid-19 threat effectively but the impact on work-permit holders will continue to be monitored as the international business community assesses the financial consequences of the disease.

To promote tourism and aid economic recovery, Bermuda launched a new programme allowing non-Bermudians to work or study remotely from Bermuda. The programme allows flexible travel back and forth to Bermuda during the year.



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