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## Establishing Bermuda Residence

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## Preface

This publication has been prepared for the assistance of anyone who is considering establishing residence in Bermuda. It deals in broad terms with the requirements of Bermuda law. It is not intended to be exhaustive but merely to provide general information to our clients and their professional advisers.

We recommend that our clients seek legal advice in Bermuda on their specific proposals before taking any steps to implement them.

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## TABLE OF CONTENTS

1.	ABOUT BERMUDA	4
2.	RESIDENCE IN BERMUDA	4
3.	RESIDENCE AND EMPLOYMENT IN BERMUDA	7

## 1. ABOUT BERMUDA

A solitary outpost of beauty and civility in the mid-north-Atlantic, Bermuda enjoys a delightful sub-tropical climate entirely incongruous with its northerly latitude. The proximity of the Gulf Stream accounts for the mild temperatures which, combined with fertile soil, have produced a verdant island, ablaze with the colours of ever-present flowers and shrubs.

Abundant natural beauty has been equally matched by significant economic success so that Bermuda can also boast a highly educated and professional work-force, backed by a sophisticated, well developed infrastructure of physical and support services, which have combined to transform what was once merely an idyllic holiday retreat into a dependable centre for international offshore business.

First settled in 1609, Bermuda has its own democratically elected Parliament dating from 1620, the oldest in the British Commonwealth outside the United Kingdom. As Britain's oldest existing colony, Bermuda has close ties with the United Kingdom which is responsible for the foreign and defence affairs of the island and provides a valuable frame of reference for the local legal system. While the latter is independent, English cases are of strong persuasive authority before the Bermuda Courts and, indeed, final appeal lies to the Judicial Committee of the Privy Council.

The eastern seaboard of the United States is less than two hours flying time from Bermuda with daily flights to major cities. There are flights to London of approximately seven hours duration most days each week. Ease of access is complemented by efficiency and comfort on arrival. First rate hotels and restaurants and easily available water and land sports afford enjoyment and relaxation to the visiting business people already attracted by the reliable communications and commercial expertise of the Island.

## 2. RESIDENCE IN BERMUDA

For an individual who is not Bermudian and wishes to take up residence in Bermuda but does not wish to be employed in Bermuda, traditionally the only option was to acquire Bermuda real estate. This option provided some challenges. Ownership of Bermuda real estate is generally restricted in Bermuda to its citizens, and only a limited inventory is otherwise available to non-Bermudians. Typically that inventory is very expensive. Further, such acquisition of Bermuda real estate required (and still does) the application and purchase of a one-off license, the cost of which was, at one point, 25% of the value of the property. This license fee is now 12.5% of the value of the property.

Whilst acquisition of Bermuda real estate continues to be an attractive option to many foreign clients, the Government regularly undertakes a review of Bermuda's immigration policy with regards to residency in Bermuda by non-Bermudian citizens. The principal legislation in Bermuda is the Bermuda Immigration and Protection Act 1956 ("**BIPA**"). So long as a non-Bermudian is not actively employed in Bermuda, and can meet certain requirements, then there are two attractive options to establish residency in Bermuda. First, an application can be made for Permission to Reside on an Annual Basis, or second, a person may apply for a Work From Bermuda One Year Residential Certificate. The new Economic Investment Residential Certificate, which replaced (in 2023) the previous Economic Investment Certificate and Residential Certificate, is another option and is addressed separately in section 3 below.

## 2.1. Permission to Reside on an Annual Basis

Persons wishing to reside in Bermuda must apply for permission to the Minister responsible for Immigration (the “**Minister**”). Permission to Reside on an Annual Basis allows an applicant to reside in Bermuda on an annual basis and can be renewed at least 3 months in advance of expiry of the one year term. While referred to as “Permission to Reside on an Annual Basis”, in practice such permission can be obtained for a period of five (5) years. Applicants must be over the age of 18, and they are prohibited from engaging in employment in Bermuda, although they can work remotely from Bermuda for any position held outside Bermuda (i.e. where the employer is not operating in Bermuda and there is no contact with clients in Bermuda). When applying for permission, the applicant must demonstrate good character, adequate financial resources, and continued medical insurance coverage.

There is no requirement to purchase property if one only wishes to rent, and renting can be the more expedient option when acquiring residence in this way. If the applicant wishes to rent, we would suggest that he/she contact a rental agent, who can then write a letter to confirm that they are assisting in securing a rental property for the client pending the approval of the application.

Permission to reside on an annual basis is an ideal option for those who may not intend to reside in Bermuda for the longer term, such as those who wish to come for an extended visit to see family members; or this option could be used for persons new to Bermuda who may wish to “get their feet wet” for a year or two.

## 2.2. The Application Process for Permission to Reside on an Annual Basis

The application process for Permission to Reside on an Annual Basis takes approximately 12 weeks. The following must be submitted when making an application:

- Completed Application for Residence Form<sup>1</sup>;
- Three (3) passport-size photographs;
- Notarised copy of the passport cover and data page;
- Notarised copy of marriage certificate (if applicable);
- Two Character Letters of Reference;
- Evidence of health insurance coverage;
- An original Police Certificate<sup>2</sup>;

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<sup>1</sup> The Application for Residence Form is available online at <https://www.gov.bm/online-services/apply-residence> or, alternatively, please contact a member of our Trust & Private Client Department for more information.

<sup>2</sup> The police certificate can be obtained from the local police precinct/department and note that there is no standard reporting. This must be obtained from the applicant’s place of residence for the past twelve months.

- Evidence of financial means, e.g. Bank Statements, Investment Accounts or any account statement that shows that the applicant has sufficient means to sustain his/her stay in Bermuda;
- Original Medical Certificate<sup>3</sup>; and
- Although not required, confirmation from a Rental Agency that they are assisting in locating a rental property (we can assist in obtaining the letter) or copy of the approved Land License can be useful in supporting the application.

The government fee for Permission to Reside is currently \$275 for one year and \$1,215 for five years.

### **2.3. Work From Bermuda Certificate**

Effective 1 August 2020, a person may apply for a Work From Bermuda One Year Residential Certificate. The criteria for such an application are set out below. You must:

- be at least 18 years old and pay the application fee of \$275;
- not have been convicted of a crime in Bermuda or elsewhere;
- possess valid health insurance coverage;
- demonstrate employment with a legitimate company or your own company registered and operating outside of Bermuda, in the case of a remote worker;
- provide evidence of enrolment in a Research, Undergraduate, Graduate or Doctorate Programme, in the case of a student;
- have sufficient means and/or have a continuous source of annual income.

Family members have to apply separately and pay a separate fee. All applications will receive a response within five business days.

There is further information available from us as regarding domestic staff, children, pets, transport and health care.

If successful in your application for a Work From Bermuda Certificate, you will land as a resident. You will not pay Bermuda imposed "income" tax and a customs allowance of \$200 per person per trip will apply for certificate holders. This certificate is renewable on a case by case basis although there is no guarantee of renewal and it is not automatic. The 12 month time period begins on the date the Work from Bermuda Certificate is approved.

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<sup>3</sup> There is no standard form for the medical certificate; the physician can merely state that one has been examined and is in good health.

### 3. RESIDENCE AND EMPLOYMENT IN BERMUDA

The Government has updated its policies to accommodate non-Bermudians who wish to reside in Bermuda and seek Bermuda-based employment.

Prior to March 31 2023, an application could be made for an Economic Investment Certificate that was valid for a five year period. Thereafter, an application could be made for a Residential Certificate.

In March 2023, the Government revised and replaced its previous Economic Investment and New Residential Certificate policy with the present Economic Investment Residential Certificate policy.

#### 3.1. 2021 Economic Investment Certificate

Effective 1 March 2021, the Government introduced the Economic Investment Certificate, whereby a person could apply to the Minister for an Economic Investment Certificate pursuant to section 25 of the BIPA. An Economic Investment Certificate allowed the holder to reside in Bermuda for a period of five years upon making a qualifying investment. If the holder elected to make their investment in a Bermuda-based business, their work permit in relation to that business would be automatically approved. After five years, the Economic Investment Certificate holder would be eligible to apply for the Residential Certificate, which enabled the holder, his/her spouse and/or dependents to reside in Bermuda indefinitely. To be eligible for an Economic Investment Certificate, the applicant was required to make a “Qualifying Investment”, which was an investment of at least BM\$2.5 million (or the equivalent in another currency or asset) in one or more of the following:

- Residential or commercial real estate in Bermuda;
- Bermuda Government bonds;
- The Bermuda Sinking Fund;
- The Bermuda Trust Fund;
- A Bermuda Registered charity in the areas of sports development, youth, seniors and health;
- An existing Bermuda-based business;
- The development and launch of a new Bermuda-based business; or
- Such other social or useful ventures that benefit Bermuda, Bermudians and things Bermudian as may be determined by the Minister.

Under BIPA, an Economic Investment Certificate holder was considered a Restricted Person and therefore had to apply for a license to hold or acquire land; they could purchase any residential or commercial property in compliance with BIPA as it applied to non-Bermudians.



Economic Investment Certificates were issued for a five year period and could be revoked by the Minister subject to rules of natural justice. If the Minister denied an application, a letter of appeal could be submitted to the Immigration Appeal Tribunal within seven working days of the date of the refusal letter.

### **3.2. Recent Changes to the Economic Investment Certificate Policy**

In 31 March 2023, the Economic Investment Certificate was replaced with a new Economic Investment Residential Certificate (“**EIRC**”), pursuant to subsection 32(5) of BIPA, such that there is no longer a requirement to wait five years after making a “Qualifying Investment” before a Residential Certificate can be obtained. Further, the EIRC does not expire but Qualifying Investments must be maintained at a minimum threshold value of \$2,500,000 by the EIRC holder for at least five years. Additionally, the EIRC holder must reside in Bermuda for a minimum of 90 days in each calendar year for five years after the granting of the EIRC, and verification that these requirements have been met are required by the end of the fifth year in order to retain the EIRC.

#### **The Application Process**

In addition to providing proof of having made a Qualifying Investment, a non-Bermudian wishing to apply for an EIRC must be at least 18 years old, of good character, and not convicted of an indictable or dishonesty offence.

Persons currently residing in Bermuda and who either prospectively or retroactively meet the eligibility criteria are able to apply for an EIRC, which may be granted at the discretion of the Minister.

Bermuda’s Business Development Agency provides a concierge service for applicants. Documents are required that validate the applicant’s identity and attest to his or her compliance with this eligibility criteria. While the Minister has the right to request additional information, the following should be submitted with the application:

- Cover letter;
- Three (3) passport-size photographs;
- Notarised copy of the passport cover and data page;
- Notarised copy of marriage certificate (if applicable);
- Two Character Letters of Reference;
- Proof of Qualifying Investment;
- Evidence of health insurance coverage;
- An original Police Certificate;
- Evidence of financial means, e.g. Bank Statements, Investment Accounts or any account statement that shows that the applicant has sufficient means to sustain his stay in Bermuda;



- Original Medical Certificate<sup>4</sup>.

Certified translations of the above are required for any documents that are not in English. The application fee for the EIRC is \$2,755.

### **3.3. Residential Certificate**

A Residential Certificate pursuant to section 32 of BIPA grants the holder the right to live in Bermuda with the right to enter and exit freely for an indefinite period. In essence, the Residential Certificate holder is free to come and go from Bermuda without restriction.

Prior to the revised 2023 EIRC policy, the 2021 Economic Investment Certificate and Residential Certificate policy replaced the 2015 Residential Certificate policy and the 2003 Residential Certificate policy.

Residential Certificates granted prior to 31 March 2023 continue to be as valid and effective as they were immediately prior to the EIRC policy coming into effect and subject to the same policy considerations and rules that were in effect on or prior to 28 February 2021.

The rights and restrictions applicable under the EIRC policy do not apply to the holder of a Residential Certificate prior to that policy coming into effect under the 2015 or 2003 Residential Certificate policies but do apply to the holder of an Economic Investment Certificate or Residential Certificate granted under the 2021 policy.

### **3.4. Dependents**

The spouse or partner and any sponsored dependent children listed on the application by the EIRC holder will be granted a corresponding certificate entitling them to reside in Bermuda without the right to work. To be eligible, spouses, partners and children must similarly not have been convicted of offenses in or outside of Bermuda, be of good character and conduct.

If the spouse or dependent wishes to work in Bermuda, they are subject to the Bermuda Work Permit policy pursuant to BIPA.

Absent special circumstances, the right of a dependent child to reside in Bermuda continues until the child completes full time, tertiary education or reaches the age of 25, whichever occurs first..

Upon application by the holder of the EIRC, the Minister has the discretion to vary or amend an EIRC to add or remove a spouse or dependant.

Upon the death of, or separation or divorce from, an EIRC holder, the right of the surviving or former partner or spouse to continue residing in Bermuda may be revoked. Application may be made within three months for the surviving or former partner or spouse to obtain the relevant certificate in their own right. The same eligibility requirements set out above will apply.

### 3.5. Ongoing Duties

As mentioned above, where relevant to the investment, EIRC holders have an ongoing obligation to maintain a Qualifying Investment at a minimum threshold value of BM\$2.5 million for at least five years. They also must reside in Bermuda for a minimum of 90 days in each calendar year for five years after the certificate is granted.

Holders of certificates have an ongoing duty to inform the Minister via letter to the Chief Immigration Officer of any change in circumstances under which the certificate was originally granted. This must be done as soon as practicably possible after the relevant change in circumstances. Failure to notify can result in revocation of their certificate and possibly a fine of up to \$25,000.

*This publication should not be construed as legal advice and is not intended to be relied upon in relation to any specific matter. It deals in broad terms only and is intended merely to provide a brief overview and give general information.*

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