



Ministerial Statement
By
Senator, The Hon. Michael M. Fahy, J.P.
Minister of Home Affairs
Wednesday, March 25, 2015

Amendments to Policy for Incentives for Job Makers Act

Madam President, I wish to communicate that effective April 1, 2015, policy changes will be made to the application process for concessions and exemptions under the Incentive for Job Makers Act (as amended in 2013).

Madam President, you will recall that the Incentives for Job Makers Act was amended in 2013 to strengthen the incentives programme in an effort to retain jobs for Bermudians in Bermuda and make Bermuda a more attractive place to do business. Under the Incentive for Job Makers Act a company can apply for and obtain concessions that include having their senior executives, who are responsible for the continued presence of jobs for Bermudians in Bermuda, exempt from needing a work permit.

Madam President, the process remains that companies that submit applications must have a minimum of 10 Bermudian staff and may be eligible if they meet the following conditions:

- (a) they have Bermudians at all levels, i.e. entry, middle and senior levels, of the company, subject to the availability of suitably qualified Bermudians;
- (b) they have entry level positions held by Bermudians graduating from high school or college;
- (c) they have programmes to develop and promote Bermudians; and
- (d) they employ fair employment practices.

Madam President, the aforementioned requirements are not a one size fits all model. For example, smaller companies and newly incorporated companies that may not have as many staff but are still making a tangible and significant contribution to Bermuda can submit applications under the Incentives for Job Makers Act. Where the company is small and/or newly incorporated, the following key factors are considered:

- (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.

Madam President, applications for concessions are made under Section 3B of the Economic Development Act 1968 and exemptions are made under Section 5(1) of the same Act as read with Part V of the Bermuda Immigration and Protection Act 1956. Approvals for concessions and exemptions are given by the Minister of Home Affairs in consultation with the Minister of Economic Development.

Madam President, subsequent to approvals for exemptions, senior executives may also become eligible to apply for a Permanent Resident's Certificate (PRC) under Section 31A of the Bermuda Immigration and Protection Act 1956, of which the Minister of Home Affairs also has remit.

Madam President, to support the application process for concessions and exemptions and for PRCs, a guidance document under title "*Incentives for Job Makers Guidelines for Employers*" is also available at www.gov.bm.

Madam President, since the amendments at December 17, 2013 the following statistics apply:

Concessions for Companies:

- Approved – 43
- In process – 1

Exemptions for Senior Executives:

- Approved – 100
- In process – 3

PRCs

- Approved – 51

Madam President, for applications for concessions, we have had less than five (5) applications denied and only one (1) application has been put on hold.

Madam President, in a very small number of applications the Ministry of Home Affairs and the Department of Immigration have had concerns with respect to training and development programmes and the promotion of Bermudians within companies. Where we have had concerns,

applications have been delayed while clarification has been sought. For example, since the Act requires suitable training programmes to be in place to train Bermudians, the technical officer has correctly made inquiries as to the identity of those Bermudians who have in fact been trained. In some circumstances, albeit very limited, it was apparent that the named employees were not aware of their employer's intent to apply for concessions and exemptions under the Incentives for Job Makers Act.

In addition, the current guidelines for Incentives for Job Makers do not explicitly make reference to an objection period whereby concerns/complaints can be submitted in confidence. Notwithstanding this, such concerns/complaints have been received and taken into consideration by the technical officer prior to recommendation to the Minister and considered by me and the Minister of Economic Development prior to approval or rejection.

Madam President, in an effort to ensure the goals of the amendments to the Incentives for Job Makers Act are fully realized – to retain jobs for Bermudians in Bermuda and make Bermuda a more attractive place to do business – the process for applications for concessions and exemptions will now require that employers formally notify all current employees of their intent to make such applications.

Madam President, the Ministry of Home Affairs Headquarters will prepare a form letter for employers to send to their employees. The letter, which will include the guidelines/conditions that must be met to qualify for the concessions and exemptions, will invite employees to submit concerns to incentives@gov.bm. This email account will be regularly checked by the administrative support team at the Ministry and submissions will be held in strict confidence.

Madam President, employers will be required to notify employees via email. Where employees do not have access to emails, the notification should be communicated in hard-copy and should be placed on office bulletin boards. Employees will be given fourteen (14) days (from date of distribution of the internal notification) to submit concerns. Concerns must be aligned with the said conditions found in the Act; i.e. one may submit a concern that relates to the company's training and development programmes. I pause here to emphasize that the Act does not necessitate that the individual senior executive directly train Bermudians. Rather, the requirement is that companies have programmes in place to develop and promote Bermudians. However, if by organizational design, a senior executive does train Bermudians, this would be a plus. This being said, all concerns by employees must be bona fide and the information must not be anecdotal.

Madam President, applications for concessions and exemptions can only be submitted after employers have notified all current employees of their intent to make applications because the application process will require that employers provide evidence of the internal notification.

Madam President, again, these changes will come into effect at April 1, 2015. I think the changes are a move in the right direction and will further assist in the retention of jobs for Bermudians and will allow Bermudians to voice their concerns. For more information employers and employees can contact Mrs. Charleda Mahon Gibbons at the Ministry Headquarters at 295-5151, extension 1782 or cemgibbons@gov.bm.

Thank you **Madam President**.