



Ministerial Statement
By
Senator, The Hon. Michael M. Fahy, JP
Minister of Home Affairs

Wednesday, March 18, 2015

Update on the Work Permit Policies

Madam President, the implementation of the new Work Permit Policies 2015 saw the inclusion of a definition for a “sponsored dependant”. Policy 5, defines a sponsored dependant as:

1. a spouse of a PRC holder or work permit holder (married in accordance with Bermuda law);
2. a partner of a Bermudian, PRC holder or work permit holder
3. a child(ren) of a PRC holder or work permit holder

Madam President, as you are aware, sponsored dependants, upon application, may be issued an entry/re-entry permit which will allow them to seek employment unless otherwise stated on the entry/re-entry document. Note, sponsored dependant children will only be given permission to reside, not seek employment.

Madam President, the definition of a sponsored dependant was a significant update to the Work Permit Policies, particularly, after the extensive consultation process employed for approximately four (4) months, ending at December 31, 2014. Of significance is the second definition which includes a “partner”. This definition gave rise to the requirement to assist the Department of Immigration in determining whether the partner of a Bermudian, PRC holder or work permit holder is in a relationship that is genuine and subsisting.

The guidelines, under title “***Department of Immigration Instructions in Respect of a Partner,***” which were introduced at March 1, 2015, somewhat mirror the procedures employed by the UK and are available on the Department of Immigration’s website at www.immigration.gov.bm. Commensurate with the definition of a sponsored dependant, the guidelines further identify that a partner means “*a person who has been living with a Bermudian, PRC holder or work permit holder in a relationship akin to a marriage for at least two (2) years prior to the date of application.*”

Madam President, while I will not communicate every detail of the guidelines, I will share some of the salient points, detailed in two categories, namely; 1) factors which may be associated with a genuine and subsisting relationship and 2) factors which may be associated with a relationship which is not genuine and subsisting.

First, ***factors which may be associated with a genuine and subsisting relationship:***

1. The partners are in a current, long-term relationship and are able to provide satisfactory evidence of this by way of affidavits from both partners explaining the relationship. This must include details of living arrangements and other such pertinent details.
2. The partners are co-habiting and are able to provide satisfactory evidence of this e.g. a joint mortgage/tenancy agreement, a joint bank account and/or joint savings, utility bills in both their names.
3. The partners have children together (biological, adopted or step-children) and shared responsibility for them.
4. The partners share financial responsibilities (such as information per (2) above).

Now moving on to ***factors which may be associated with a relationship which is not genuine and subsisting:***

1. One or both partners makes a public statement that their relationship is a sham. An application can be refused on the basis of such a public statement alone.
2. One or both partners makes a public statement (not in confidence) that they have been forced into a relationship. An application can be refused on the basis of such a public statement alone.
3. One or both partners does not appear to have the capacity to consent to the relationship, e.g. owing to learning difficulties, and independent evidence, e.g. from a social services assessment.

The above lists are not exhaustive and should not be considered as a checklist. As previously mentioned, the full scope of the guidelines is on Immigration's website and the general public is encouraged to review the document in its entirety.

Madam President, the determination of whether a relationship is genuine and subsisting will be considered upon application for an entry/re-entry. The Department of Immigration will consider the objective factors set out above and the outcome of its initial assessment may prompt additional scrutiny to identify and evidence a non-genuine, non-subsisting relationship, or may result in an outright refusal.

Madam President, if the Immigration Board or Minister responsible for Immigration determines that the relationship of the partners is genuine and subsisting, an entry/re-entry permit shall be granted for a period of five (5) years in respect of a partner of a Bermudian or PRC holder. Upon expiry of the entry/re-entry permit, the partner of the Bermudian or PRC holder will be required to re-apply for a new entry/re-entry permit in the normal manner. If there is a change in the status of the relationship the partners must immediately notify the Department of Immigration in writing.

Madam President, in the case of a partner of a work permit holder, the entry/re-entry permit shall be granted for the duration of the work permit

holder's work permit. Upon application of a new work permit, the sponsored partner must apply for an entry/re-entry permit in the normal manner. If there is a change in the status of the relationship the partners must immediately notify the Department of Immigration in writing.

Madam President, the approach to this important matter has been well-thought through and is deemed fair. Applicants who have questions/concerns should contact the Department of Immigration either via telephone or email. The team is equipped to respond to inquiries relating to the process.

Thank you, Madam President.