



Ministerial Statement

Senator, the Hon. Michael M. Fahy JP

Minister of Home Affairs

Publication of IAT Judgments

Wednesday November 25th 2015

Madam President, this morning I would like to take a few minutes to highlight the extensive work that has been going on behind the scenes with the Immigration Appeal Tribunal ("the IAT").

Madam President, the IAT was established by way of a legislative amendment to the Bermuda Immigration and Protection Act 1956 that came into effect in August 2011. At that time there was provision for the Immigration Appeal Tribunal to "make rules governing the practice and procedure to be followed in relation to its proceedings." Notwithstanding, by January 2013, more than a year and half after the establishment of the IAT there were no Rules and a total of thirty seven cases waiting to be heard, which by 15 May, 2013 had grown to forty four.

This backlog was unacceptable and therefore, this Government implemented regulations to form a tribunal to address the same as a matter of priority.

Since 2013, the IAT have considered approximately 60 cases with most of them being resolved either by agreement of the parties or by formal hearings. Approximately 21 formal hearings have taken place over this period resulting in a body of well- reasoned written decisions that have influenced and shaped our understanding of the Bermuda Immigration and Protection Act 1956 as well as influenced policies at the Department of Immigration for the better. Importantly, the IAT have conducted their hearings and rendered their decisions with fairness, sensitivity and in accordance with the law. Few of the Rulings have been appealed which is a testament to the care and attention of the IAT.

Madam President, the first decision of the IAT was in regard to jurisdiction and it was determined that the Act did not give the IAT jurisdiction to hear appeals from work permit decisions. Of the remaining 20 decisions, 13 Rulings upheld the Minister's decision and seven (7) Rulings quashed the Minister's decision. Most of the decisions deal with the refusal to grant Bermudian Status or PRC.

More specifically, one (1) case dealt with whether there was a sham marriage and revocation of Bermudian Status; a number of cases dealt with single parents of Bermudian children being asked to leave Bermuda; one (1) case dealt with whether the ordinary residence requirement begins at birth or whether residency begins when the child is in the womb.

The Chairman summed it up by saying, *"Most of the cases deal with very fascinating, complex factual and legal scenarios which highlight the need to review and streamline the Act which is sometimes cumbersome and difficult to understand"*.

Madam President, the current chairperson of the IAT, Mr. Tim Marshall, is completing three (3) years of service and believes it is time to give a member of his capable team an opportunity to lead the IAT for the next three (3) years. However, before Mr. Marshall steps down, he has committed to ensuring that all of the decisions rendered by the IAT will be published on a new IAT website which will add to the body of jurisprudence and help the public to better understand how the Immigration and Protection Act 1956 works.

It is a monumental task as the Appeal Rules of 2013 encourage the judgments to be published in a manner that does not identify the appellant or disclose confidential information which means that the Rulings have to be carefully edited before publication. While publication of the Rulings is an initiative of the IAT, the Government is fully supportive of publishing the Rulings as Government remains committed to giving the public access to information of public interest and importance, particularly decisions that shed light on how Government carries out its responsibilities.

Madam President, as I close I would like to personally thank Mr. Marshall for his exemplary work on the IAT for the past three years. Truly without his leadership, commitment and expertise, we would not be here today publishing the judgements of these complex cases. I would also like to thank Ms. Kiernan Bell, the Deputy Chair of the IAT, who in fact will be

assuming the Chairmanship effective January 1st 2016. Ms. Bell has been an important part of the success of the IAT and has chaired on a number of these cases during her tenure.

I would like to wish Mr. Marshall well in his future endeavours and wish Ms. Bell much success as she assumes the helm from Mr. Marshall who has set the bar very high.

Madam President, the IAT website will be linked to my Ministry's website by Friday November 27th 2015 where all the judgments can be located. The Ministry website is www.gov.bm - Ministry of Home Affairs.

Thank you **Madam President**.