



Ministerial Statement

Sen. the Hon. Michael M. Fahy, JP

2014 Work Permit Policy

Wednesday December 3rd 2014

Madam President, thank you for affording me this opportunity to provide my Senate Colleagues and those listening by way of radio with an update as it relates to the delay of bringing the 2014 Work Permit into force further to my press conference last Thursday November 27th 2014. At that press conference I committed to making a similar statement in the Senate for the official record.

As you will know, I made comments in the Senate Chamber on last Wednesday in relation to my intent to delay the release of the final work permit policy. I would therefore like to expand on those remarks now.

Madam President, you may recall I held a press conference on October 1st 2014 to unveil the new Draft Work Permit Policy for Bermuda.

At that press conference I advised that the draft policy had been put together based on extensive consultation with industry leaders in

collaboration with certain members of the work permit stakeholder group over the period of approximately one (1) year.

During the months of August and September 2014 I personally met with a number of stakeholder groups as part of the consultative process to procure their feedback.

I also stated at the October 1 2014 press conference that I would be holding further meetings with stakeholder groups in order to hear from them directly as to whether there were any concerns with or suggested changes to the content of the draft policy before it went live. It is against that brief backdrop **Madam President** that I can advise these meetings did occur and that the feedback I received was overwhelmingly positive.

These included meetings with the Labour Advisory Council, the Bermuda Trade Union Congress, the Association of Bermuda Insurers and Reinsurers, The Association of Bermuda International Companies, Bermuda Employers Council, Bermuda Hotel Association, Bermuda Human Resources Association, the Chamber of Commerce, the Bermuda Entertainers Union and the Immigration Board as well as numerous individuals who contacted me directly to voice their views.

At the conclusion of each meeting, I encouraged participants to collectively provide any additional feedback by the October 17th 2014 deadline.

In addition, we opened the draft policy to the wider public via our website and invited written submissions for the Ministry's review by the October 17th 2014 date.

Madam President, notwithstanding that deadline I have continued to meet many people who had concerns, thoughts, suggestions and positive input right up until last week to ensure I heard as many views as possible given the comprehensiveness of the changes.

To that end I would like to commend all stakeholders who provided very useful input. I would also like to thank those members of the public who provided valuable insight, asked pertinent questions, and offered recommendations to the draft policy posted online – all of which we took under active advisement and amended the draft accordingly. It was from this feedback that we had intended to roll out the final policy on December 1st of this year.

Madam President, as I indicated in the Senate last Wednesday morning, there was one category of the Work Permit Policy that I ***did not*** feel comfortable with, as I believed there was still some confusion, misinformation and misunderstanding surrounding this category...in spite of the extensive consultation undertaken as previously mentioned.

As you may know we in fact tabled the fee regulations to accompany the policy in the House of Assembly on the opening day of Parliament and they were supposed to be debated two weeks ago. However, I asked that they be delayed so I could continue to dialogue and allay concerns that I and others had based on what we had heard during the consultation process, albeit very late in the day.

The category that has given me and others cause for pause is the Bermuda Employment Visa or “BEV”.

Madam President, I was advised by many stakeholders, particularly the Association of Bermuda International Companies (“ABIC”), (which has a membership of 110 companies with over 3000 staff – 60% of whom are Bermudian) at the beginning of and throughout the consultation process, that the BEV was an important component of a new Work Permit Policy since it assisted international exempted company business needs, whilst ensuring companies would have programs in place to ensure Bermudians would be trained.

Upon my request the policy evolved so that only those exempted companies that were accredited and audited in respect of those training programs would be eligible for BEVs. It was believed that this would not only allow those participating accredited companies to get the staff they believed they needed, but they would also allow Bermudians to aspire to progress in their respective organizations.

Again, much work was in fact undertaken upon my request in respect of comprehensive guidelines that would be in place to give accreditation to companies who were training Bermudians, offering scholarships and following good employment practices. The BEV was to replace the ten (10) year work permit which did not require advertising. You will recall the BEV was for a maximum of seven (7) years that would require to be advertised if a new BEV was sought after expiry of the first BEV.

However, I had been made aware that some companies were intending to allocate the BEV in a way in which the draft policy had **not** intended.

Madam President, my concern lay specifically with what could be termed “double dipping”, whereby CEO’s and other chief officers, who already obtain work permit waivers under existing policy, and did prior to this administration, would not be allocated a BEV by their employer – rather they would end up being allocated to mid-level employees, which could thereby have the unintended consequence of effecting Bermudian opportunities – notwithstanding the comprehensive guidelines and the in-depth accreditation process.

Certain ABIC members have also raised these concerns with me in leading up to the commencement date of the draft policy. Based on that feedback, a number of options were discussed, from lowering the twenty percent (20%) threshold to ten percent (10%), limiting the BEV to C-suite personnel, to scrapping the concept entirely. However, the former two options do not appear to fix the issue that has arisen.

Madam President, given that the very organization that has strongly lobbied for the BEV is no longer wholly in support, I made the determination to scrap the BEV concept.

Such delayed reactions and change of heart from ABIC, the very stakeholders who originally requested the BEV concept, are very disappointing because of the knock-on effect the postponement of the entire policy has on other areas that are important for Bermuda to remain competitive and increase opportunities for qualified Bermudians.

Whilst it may be easier to forge ahead, in my view consideration must be given to ensure the right balance is achieved between

assisting International Business in getting the best employees they can in a competitive marketplace, but also ensuring that qualified Bermudians are given the opportunities we deserve.

Whilst it is somewhat disappointing that I have to delay the commencement day roll out, I am more concerned about getting this work permit policy right from the outset in order to ensure it assists business - but more importantly, benefits qualified Bermudians in the work place through job retention and job creation.

Because this is such a comprehensive document as a whole, it would be fair to say that once finally completed, there will be no more substantive changes to the policy for some time to come. I shall accordingly reveal to the public the final policy in the coming weeks that will exclude the BEV.

Madam President, on a brighter note, I can say that all other feedback regarding the addition of new work permit categories such as the ***Global Entrepreneur Permit*** and changes to the new ***Business Permit***, as well as the many myriad of changes to be introduced to speed up processes, have been broadly welcomed and are seen as ways to assist job creation and new opportunities for Bermudians. As a result, the new fee structure under the Government Fees Regulations 1976 will be re-tabled in February 2015 when the House reconvenes after the Christmas break.

I would like to repeat something I said in October, and that is: as with any draft policy, revisions are necessary in order to remain current with an ever-changing work environment to ensure Bermuda and Bermudians not only remain in touch with global trends, but also remain competitive.

I would like to reiterate that it is still envisioned that the final version of the policy will be published in the coming weeks which will allow the Department of Immigration to continue working on substantial re-drafts of existing application forms with the aim of having them available on-line only.

The policy would then become operative after the new fee regulations are passed and the final forms are completely drafted and prepared. The intervening period between release of the final policy and passing of the relevant fee regulations will also give the Department of Immigration a little more time to undertake stakeholder training in respect of the filing of forms for the new work permit categories.....and to remind those seeking work permits of the new requirements.

Madam President, I was extremely grateful for the feedback on the draft policy and I would like to thank all those who took the time to respond. More importantly I am grateful for the hard work undertaken by the team from the work permit stakeholder group in producing the draft policy and the Department of Immigration staff for their hard work done to date.

Thank You **Madam President**.