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“There is much to be done regarding Comprehensive Immigration Reform, but the tabling of this Bill is one positive step in the right direction. In tabling this Bill today, we are taking steps to fulfill the promises this Government made to the people of Bermuda,” said the Minister of National Security, the Hon. Wayne M. Caines JP, MP, as he tabled the Bermuda Immigration and Protection Amendment Act 2020 in the House of Assembly this morning.

The Bill will be debated on March 16, 2020.

In his presentation this morning, Minister Caines noted that Government was committed to ensuring immigration reform, pointing out that progress “requires time, resources, collaboration with stakeholders and strong leadership on this issue.”

The Minister stressed that consultation with an array of groups was critical in moving forward, pointing out that the Ministry engaged with key stakeholders as part of this process, taking time to listen to the feedback and comments.

Acknowledging that there is “much fear, angst and frustration at the current state of immigration in this country” the Minister shared that meetings and consultation occurred with a wide cross section of organisations across Bermuda, including:

- Leadership of the People’s Campaign;
- The Bermuda Public Service Union (BPSU);
- The Bermuda Industrial Union (BIU);
- The Association of Bermuda International Companies (ABIC)
- The Association of Bermuda Insurers and Reinsurers (ABIR)
- The Bermuda Employers Council (BEC)
- The Bermuda Chamber of Commerce;
- One Bermuda Alliance (OBA) members; and
- Progressive Labour Party (PLP) members.

In delivering his statement today the National Security Minister said, “I rise today to announce that I am tabling the Bermuda Immigration and Protection Amendment Act 2020, a Bill best referred to as the “Repatriation and Mixed Status Families Bill”. This morning I will outline:

- the phases of Comprehensive Immigration Reform;
- the problems addressed by this Bill; and
- the collaborative approach we used.

“Last year we said that Comprehensive Immigration Reform must be done in phases. We cannot fix everything at once. We outlined four distinct phases of Immigration Reform:

- **Phase 1** addresses operational back-logs in the Department of Immigration including work permit processing and has resulted in us closely monitoring this area to ensure we have no slippage moving forward.
- **Phase 2** involves improving processes and procedures within all sections of the Department to remove bottlenecks, eliminate waste and improve efficiency. We seek to improve the effectiveness of decision making, have more consistent outcomes and improve turn-around-times. For this phase we partnered with the private sector through the Association of Bermuda International Companies (ABIC), the Association of Bermuda Insurers and Reinsurers (ABIR) and others to fund “Lean” Process Improvements with the assistance of KPMG Bermuda. For this partnership we are especially thankful.
- **Phase 3** involves policy and legislative reforms and again we partnered with the private sector and with KPMG to augment the internal Government team, in addition to working collaboratively with other Government Ministries on legislative amendments. This is the area most often referred to as Immigration Reform, however, it represents only one phase of the wider reform.

“We did not discard the existing Bermuda Immigration and Protection Act of 1956 and attempt to introduce a brand new Act. We believed that approach would be divisive and inconsistent with the Government’s pledge to execute Immigration reform in a collaborative and bi-partisan way. A new Act would also have no case law behind it and lead to legal uncertainty.

“We have not rushed, or taken our responsibility lightly. We have proceeded cautiously, fully considering the racially charged history of immigration in this country and the fact that this is an emotive issue. The full scope of policy and legislative changes required under phase three (3) is broad and includes:

- Permanent Resident Certificates;
- Bermudian Status;
- Belongers;
- Job Makers;
- Mixed Status Families.

“Phase 4 is the implementation phase and includes work to update IT systems, training of staff and an examination of the organizational structure in light of procedural and legislative changes. This phase also includes the implementation of a new Border Management System, scheduled to ‘go live’ in the summer of 2020. This new system will allow the Department of Immigration to better perform its role of protecting our borders and is a critical dependency for the new airport to open with the use of E-gates. There is much more to be done for Comprehensive Immigration Reform, but again, the tabling of this Bill is one positive step in the right direction.”

Minister Caines referenced the Government’s Speech from the Throne pledge in November 2018 as another reminder of the Government’s commitment to comprehensive immigration reform:

- *“...our immigration laws must better reflect the mandate of this Government in putting Bermudians first. That means that a balance must be struck between the legitimate expectations of Bermudians in their own land and the legitimate labour needs of businesses.*

- *“Historically that balance has not been struck, and throughout our history immigration has been used to achieve aims that had nothing to do with economic growth. That historical legacy has tainted the issue for many Bermudians; yet we must have mature debate on reforming and progressing immigration in a manner that works best for a better, fairer Bermuda.*
- *“During this session, the Legislature will be invited to consider bills that simplify issues surrounding Bermudian status, the status of PRC holders and Bermudian status for mixed-status families.”*

The Minister also cited the Progressive Labour Party’s (PLP) Election Platform 2017, which pledged:

- *“Throughout our history, immigration laws and policies have been mired in the combustible mix of race, politics and class. They have divided our community, created distinct benefits for some and resulted in the marginalisation of others. We can never forget the historic protests in March 2016, when the OBA tried to force blanket status grants on Bermudians without consultation. Complete comprehensive bipartisan immigration reform to ensure that the rights of Bermudians are advanced and protected, while recognising the need to grow our economy with fair and balanced work permits and residential policies. Our reform will ensure that Bermudians will come first, employer abuse is minimised, and the land in Bermuda is protected for Bermudians.”*

And he reiterated that in tabling the Bill today, “we are taking steps to fulfill the promises this Government made to the people of Bermuda.”

The Minister said, “This Bill was formulated based on recommendations from the Report of the Consultative Immigration Reform Working Group and the section entitled Mixed Status Families. This group worked tirelessly for 18 months, holding over 14 public Town Hall meetings. The Group listened to the concerns, aspirations and ideas of Bermudians. The Group worked in a bi-partisan fashion and every member of the Group signed off on every word of the Report.

“The Report, now commonly referred to as the ‘Madeiros Report’, truly represents the thoughts and feelings of the people of this country. The Chairman, Mr. William Madeiros should be commended for his leadership and his guidance of the Group. Under the leadership of the late Hon. Walton Brown JP, MP a Bipartisan Parliamentary Committee on Immigration Reform was then created that further advanced the work.”

The Minister reminded that the Group met from early 2018 through 2019 to develop policy proposals in a collaborative and bi-partisan manner in line with this Government’s Election Manifesto promise. Members of the Bi-partisan Committee include Members of Parliament:

- Renee Ming, JP MP;
- Christopher Famous, JP MP;
- Leah Scott, JP MP; and
- Ben Smith, JP MP.

The Minister pointed out that as it relates to addressing the issues of Repatriation and Mixed Status Families, several key principles were used to guide the development of this Bill. The principles were that Immigration policy:

- should not negatively impact Bermudians;
- should be fair;
- should address the problems in a sustainable way;
- should not lead to the separation of families; and
- should ensure Bermudians have a place of primacy in their own homeland.

In his Ministerial Statement today, Minister Caines expanded on the current issues presented and also shared the Government's proposed solutions.

Overview of Problem and Solution:

The definition of a Mixed Status Family is:

'A family where one or more parents has Bermudian Status or holds a Permanent Resident's Certificate but their son, daughter, or spouse does not have either Bermudian Status or hold a Permanent Resident's Certificate.'

The problems this 'Repatriation and Mixed Status Families' Bill addresses are:

1. That Bermudians experience great difficulty for their loved ones, who are born overseas, to obtain Bermudian Status; and
2. That current Immigration law is unfair for Bermudian families because it creates differences in rights between family members, with some family members having **no rights** in the country of their birth.

The Repatriation Issue

Minister Caines notes, "We addressed the situation of Bermudians who have children born overseas and the administrative burden of the paperwork in two ways: both moving forward, prospectively, and going back in time, retrospectively.

"Prospectively, for children born overseas to a Bermudian parent, from the commencement of this Legislation, parents of these children will not be required to prove that they were domiciled in Bermuda at the time of the child's birth for up to two generations of children born overseas. That means if a Bermudian has a child born overseas, that child is automatically Bermudian at birth without the need to fulfil any other requirement. And if that child born overseas in turn has a child of its own, that second generation born overseas would also be Bermudian from birth.

"Retrospectively, the Bill does **not** make any legislative change. In the case of a child who was born prior to the commencement of this legislation, there is still a requirement for the Bermudian parent to prove that they were domiciled in Bermuda at the time of the birth. However, as part of the process improvements in the Department of Immigration, the Government will simplify and streamline this process to make it less burdensome for Bermudians to apply for their children born overseas to be granted Bermudian Status."

Mixed Status Families Issue:

"We took the problems identified in the Madeiros Report under the Mixed Status Families section and simplified them into 3 (three) problems that the Bill addresses:

- **Problem 1** addresses the issue of two siblings that were both born from the same parents in Bermuda, but on different dates, with one child having acquired Bermudian Status and the other having no regularized position under Bermuda Immigration laws. This anomaly arises from legislative changes that over time created cut-offs, which in turn resulted in one sibling with full rights and the other sibling with none. The Bill regularizes the situation of the sibling with no rights by allowing him to qualify for Bermudian Status as a result of the sibling already possessing Status.
- **Problem 2** addresses the issue of a child born of Bermudian parents that has not qualified for Bermudian Status because at the time he was eligible to apply, he was either too young or too old. In some cases, both parents are Bermudian and the child was born in Bermuda. The Bill

regularizes the child's position via the parents by allowing the child to qualify for Bermudian Status.

- **Problem 3** relates to the situation of Permanent Resident Certificate holders. Let me be clear that this Bill only focuses on Repatriation and Mixed Status Families. This Bill does not attempt to address the problems around PRC. However, one significant source of Mixed Status Families is the fact that persons who hold a PRC under one portion of the Act are able to pass on this status to their children, while persons who have PRC granted under another portion of the Act are not able to do so.

The Bill addresses this issue but creating a window to regularize this situation for children of PRC holders by allowing them to obtain PRC for a period of two years from the commencement of the Bill. Thereafter, the legislation reverts back to the status quo. This two year window is crucial for the Government to enact further legislative changes as part of Immigration Reform and to address the issue of PRCs.

"Our collaborative approach was most significant in the Bipartisan Committee. Members of the Committee are supportive of this Bill who shared:

- ✓ **On behalf of Leah Scott JP, MP and the One Bermuda Alliance, Ben Smith JP, MP said:**
"This Bill is the first step in the process of reform, and demonstrates that members of both parties have worked diligently together toward a common goal. While this is just a first step – it is not the only step and we thank the public for their patience with this process thus far."
- ✓ **Renee Ming, JP, MP of the PLP said:**
"I am happy to have been a part of a truly Bi-partisan group that has had one thing in common – the protection of Bermuda's prized possession – her people! There has been much talk about the time this emotive matter has taken us, but we would rather measure countless times, but cut only once. We were well aware that we needed to strike a balance that encourages growth both economically and socially, but not at the expense of our people."

Minister Caines wrapped up his Ministerial Statement by concluding, "One might ask this Government what are what this Government is doing to take care of Bermudians? What steps are being taken to protect the interests of Bermudians? In times of rising global inequality, when only the 1% seem to be making progress while the masses struggle to survive, how is this Government fighting for its people?"

"The answer is we are standing strong to ensure there are fair opportunities for Bermudians in their own land. We are taking steps to ensure that through our policies and practices there are good jobs for our people:

- Through ever more vigilant Compliance the Department of Immigration is fully utilizing its 14 Compliance Officers.
- We have advertised the email and telephone Compliance Hotlines.
- We have revisited Open, Closed and Restricted Categories of Work Permits.
- We are insisting that employers have front line workers that speak English in this country and will take steps to correct this if they don't.
- We are reviewing our Work Permit Policy to make it more equitable.
- We are requiring employers to have robust training and development plans to ensure that Bermudians get first opportunities for advancement.

“There are myths that have been propagated that need to be directly addressed in tabling this Bill today:

- This single Bill is not the totality of Immigration Reform – it is only the beginning.
- This Bill addresses the issues of Repatriation and Mixed Status Families only, but further reform is required to address other issues such as PRC, Bermudian Status and Belongers.
- The sentiment that this Bill does nothing for Bermudians is patently untrue and must be rejected – there are many black Bermudians who are caught up in the law as it stands with two Bermudian parents, but unable to claim Bermudian Status as the law doesn’t allow it.
- The idea that the problems addressed by this Bill have been met with indifference by Bermudians is simply false.
- The fear that this Bill or any type of Immigration reform will result in a giveaway of Bermudian Status and a loss of primacy of Bermudians in their own country is a fear that must be confronted and debunked.

“Immigration Reform is about preserving the birthright of Bermudian parents for their children. It’s also about keeping families together. We can’t forget that historically immigration policies have been abused and we have an obligation to move forward cautiously. We must move forward with Comprehensive Immigration Reform. We must boldly lead the way forward. We must listen, learn from each other and work together on this issue for the benefit of all of Bermuda.

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