

NON-CITIZENS (PROPERTY RESTRICTION)

Act 22 of 1975 – 12 July 1975

Amended 13/01 (P 24/01); 20/02*; 35/04 (P 39/04); 21/05 (P 19/07); 21/06 (cio 1.10.06); 14/07 (P21/07); 17/07; 18/08; 14/09; 20/09 (cio 19.12.09)

* The NC (PR) Act is amended by deleting the words “Class B Banking Licence” wherever they appear and replacing them by the words “Category 2 Banking Licence”

ARRANGEMENT OF SECTIONS

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1 Short title

This Act may be cited as the Non-citizens (Property Restriction) Act.

2 Interpretation

In this Act –

“acquire, alienate, hold or purchase” does not include the burdening of a property with a mortgage or a charge;

“business certificate” means –

a Category 1 Global Business Licence as defined under the Financial Services Act 2007 or a banking licence issued under the Banking Act 2004, in so far as it relates to its banking transactions with non-residents and corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence;

[Added 13/01; amended 20/02; 35/04 (P 39/04); repealed and replaced 21/05 (P 19/07); amended 16/07 (P 22/07)]

“certificate” means a certificate issued under section 3(2);

“charge” means a fixed or floating charge;

“Commission” means the Financial Services Commission established under the Financial Services Act 2007;

[Added 13/01; amended 14/07 (P 21/07)]

“Minister” means the Minister to whom responsibility for the subject of internal affairs is assigned;

“non-citizen” means –

(a) a person who is not a citizen of Mauritius;

(b) an association or body of persons, whether corporate or incorporate, where –

(i) it is not domiciled in Mauritius;

(ii) it is quoted on the Official List of the Stock Exchange or admitted to any Second Market established under the Securities Act and its control or management is vested in one or more persons who are not citizens of Mauritius; or

(iii) it is not so quoted or admitted and one of its shareholders is not a citizen of Mauritius;

[Amended 14/09; repealed and replaced 20/09]

(c) a trust in so far as it is involved in any transaction referred to in section 22 of the Trusts Act;

[Added 14/09]

“property” –

- (a) means an immovable property, whether freehold or leasehold, in Mauritius; and
- (b) includes –
 - (i) in relation to a trust or otherwise, any rights or interests in immovable property, whether legal or beneficial; or
 - (ii) any shares;

[Repealed and replaced 14/09]

“qualified corporation” means –

a corporation holding a Category 1 Global Business Licence as defined under the Financial Services Act 2007 or a bank holding a banking licence issued under the Banking Act 2004, in so far as it relates to its banking transactions with non-residents and corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence;

[Added 13/01; amended 20/02; 35/04 (P 39/04); repealed and replaced 21/05 (P 19/07)]

“resident in Mauritius” means –

- (a) in relation to an individual, a person who has his domicile in Mauritius;
- (b) in relation to a body corporate, a body incorporated or registered under the law of Mauritius;

“share” –

- (a) means an interest, by any name called, in a company, partnership or société or any other body corporate which holds or purchases or otherwise acquires an immovable property in Mauritius; and
- (b) includes –
 - (i) a share in a partnership or société or any body corporate which reckons amongst its assets –
 - (A) any freehold or leasehold immovable property in Mauritius; or
 - (B) any share in a company or in a company holding shares in a subsidiary or any share in a partnership or société or any other body corporate, which itself reckons amongst its assets, freehold or leasehold immovable property in Mauritius;
 - (ii) a share in a company which reckons amongst its assets –
 - (A) any freehold or leasehold immovable property in Mauritius; or
 - (B) any share in a company holding shares in a subsidiary or any share in a partnership or société or any other body corporate, which itself reckons amongst its assets, freehold or leasehold immovable property in Mauritius; or
 - (C) any share in a company holding shares in any successive subsidiary company, or any share in any successive partnership or société or any other successive body corporate, which itself reckons amongst its assets, freehold or leasehold immovable property in Mauritius; [Added 14/09]

[Repealed and replaced 20/02]

“shareholder” includes an association or body of persons, whether corporate or incorporate, which is a non-citizen.

[Added 14/09]

[Amended 18/92; 25/94; 9/97; 10/98]

3 Non-citizens’ property rights

(i) Subject to subsection (3), a non-citizen who wishes to hold, purchase or otherwise acquire a property shall make a written application to the Minister giving, wherever applicable –

- (a) the precise location of the property;
- (b) a site plan showing its extent and precise location;
- (c) the nature of the interest intended to be held, purchased or otherwise acquired;
- (d) the reason for which the application is made; and
- (e) such other information as the Minister may require.

(2) On receipt of an application under subsection (1), the Minister may issue to the applicant a certificate authorising him to hold, purchase or otherwise acquire the property, subject to such terms and conditions as the Minister may impose.

(3) No certificate shall be required –

(a) to enable a non-citizen to hold property in virtue of –

- (i) a lease agreement for industrial or commercial purposes, other than a lease agreement or a sublease agreement in respect of a residential property, for a term not exceeding 20 years;

[Amended 14/09]

- (ii) a deed of concession under the Fisheries and Marine Resources Act 2007; or

- (iii) a tenancy agreement for a term not exceeding 4 years;

[Amended 20/02; 18/08]

(b) in the case of a non-citizen –

- (i) who holds, purchases or otherwise acquires any property in accordance with any other enactment or any convention to which Mauritius is a party;

- (ii) who holds, purchases or otherwise acquires property –

(A) while he is the spouse, married in accordance with the ‘régime legal de communauté’, of a citizen

(B) by inheritance; or

(C) by the effect of marriage;

(c) in the case of a non-citizen or a person not resident in Mauritius who –

- (i) holds, purchases or otherwise acquires, sells or otherwise deals with shares or other securities of a company which is desirous of being admitted for quotation on the Official List of the Stock Exchange through a public issue, offer for sale of shares and private placement of shares, or quoted on the Official List of the Stock Exchange or admitted to any

Second Market which may be established under the Stock Exchange Act;
or

- (ii) invests in a unit trust scheme and any other collective investment vehicle;
- (iii) purchases or otherwise acquires any luxury villa, apartment, penthouse or other similar properties used, or available for use, as residence with or without attending services or amenities from a company holding a certificate under the Real Estate Development Scheme, prescribed under the Investment Promotion Act;

[Added 20/02; repealed and replaced 21/06; amended 17/07; 18/08]

- (iv) being an investor, purchases or otherwise acquires an immovable property, a right to immovable property or part of a building, for business purposes, upon production of an authorisation from the Board of Investment established under the Investment Promotion Act;

[Added 21/06; amended 17/07]

- (v) being an investor, a self-employed person who is a non-citizen, a retired non-citizen or a non-citizen referred to in section 5A(5AA) of the Immigration Act; and having been granted a permanent residence permit under the Immigration Act, purchases an immovable property or right to immovable property, villa, apartment, penthouse, flat or tenement, used or available for use, as residence, upon production of an authorisation from the Board of Investment.

[Added 21/06; amended 17/07; 18/08]

(4) For the purposes of subsection (3)(c), "company" includes a unit trust, an qualified corporation or any other collective investment vehicle.

[Amended 13/01 (error – probably (4) instead of 3(d) which does not exist)]

[Amended 18/92; 25/94; 17/95; 9/97; 10/98; 18/99; 25/00]

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5 Consequence of contravention

(1) An agreement which is in contravention of –

- (a) section 3; or
- (b) a condition imposed in a certificate,

shall be void.

(2) Where property is held, purchased or otherwise acquired in contravention of –

- (a) section 3; or
- (b) a condition imposed in a certificate,

the Curator shall forthwith –

- (i) take possession of the property; and
- (ii) cause it to be sold in accordance with the Sale of Immovable Property Act.

(3) A person, other than a non-citizen, who acquires property pursuant to a sale under subsection (2)(b)(ii), shall acquire a good title to the property.

(4) The proceeds of a sale under subsection (2)(b)(ii) shall, after deduction of all charges, be paid over, in such manner as the Master and Registrar may direct, to the non-citizen or other person who appears to be entitled to them.

6 Qualified corporation

(1) Subject to subsection (2), a qualified corporation or an applicant for a business certificate who wishes to hold or purchase or otherwise acquire a property shall apply to the Commission, or in the case of a bank holding a banking licence under the Banking Act 2004 in so far as it relates to its banking transactions with non-residents and corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence, to the Bank of Mauritius.

[Amended 35/04 (P 39/04)]

(2) The Minister may –

- (a) make regulations to provide for the manner in which applications submitted to the Commission or the Bank of Mauritius, as the case may be, shall be processed;
- (b) delegate to the Commission or the Bank of Mauritius, subject to such directions as he thinks fit, his powers to issue a certificate under this Act to a qualified corporation.

(3) Any certificate issued by the Commission or the Bank of Mauritius, as the case may be, under powers delegated by the Minister; shall be deemed to be a certificate issued under section 3(2) of this Act.

[Amended 18/92; 10/98; 18/99; Repealed and replaced 13/01; Amended 20/02]
