

# Acquisition and Lease of Immovable Property by **Non-Citizens** for Business Purposes

## GUIDELINES



[www.edbmauritius.org](http://www.edbmauritius.org)

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# 1. ACQUISITION OF IMMOVABLE PROPERTY BY NON-CITIZEN

A non-citizen can hold or purchase or acquire immovable property in Mauritius **only** after obtaining the required approval or authorisation to acquire that property.

Without the required approval, thus;

- Any transfer or vesting of an immovable property situated in Mauritius where a beneficial interest is held by a non-citizen is considered void and of no effect.
- Any transfer of shares to a non-citizen in a company which includes immovable property situated in Mauritius is considered void and of no effect.
- Any transfer or vesting of an immovable property situated in Mauritius upon a trust of which a beneficial interest is held by a non-citizen is considered void and of no effect.
- Any appointment of a non-citizen as beneficiary of a trust, the trust property of which includes immovable property situated in Mauritius is considered void and of no effect.

## What Is an Immovable Property?

- A plot of Land (Freehold or Leasehold Land)
- A Building
- Part of a Building

The purchase or acquisition of immovable property in Mauritius is regulated under the provisions of the **Non-Citizens (Property Restriction) Act.**

A non-citizen who wishes to hold or acquire an immovable property requires an authorisation under the Non-Citizens (Property Restriction) Act.

Authorisations are issued/granted, either by:

1. Prime Minister's Office (PMO)

Or

2. Economic Development Board (EDB)

A non-citizen should submit an application to obtain approval or authorisation to acquire an immovable property to either the PMO or the EDB as the case may require.

### Certificate of Approval from Prime Minister's Office

*Application submitted directly to the PMO*

Acquisition of shares in a company holding freehold or leasehold immovable property

Rental of immovable property for residence for a period exceeding 4 years

### Authorisation from Economic Development Board

*Application submitted directly to the EDB*

Acquisition of freehold or leasehold immovable property for business purpose

Lease of immovable property for a period exceeding 20 years for business purpose

Acquisition of G+2 apartments

Acquisition of residential units under the Integrated Resort Scheme, Real Estate Scheme, Property Development Scheme, Invest Hotel Scheme or Smart City Scheme.

### No Certificate of Approval or Authorisation is required for the following:

- Holding of immovable property for commercial purposes under a lease agreement not exceeding 20 years.
- Holding of immovable property for residence under a tenancy agreement not exceeding 4 years
- Holding of shares in companies which do not own an immovable property
- Holding of immovable property by inheritance or effect of marriage
- Holding of shares in companies listed on stock exchange

## DEFINITION OF BUSINESS PURPOSES

- the development of high activity commercial use building including, but not limited to, shopping mall, office building or warehouse, for own use, sale, rental or lease;
- the development of residential projects developed under the Smart City Scheme or Property Development Scheme; and
- any other activity carried out for reward, gain or profit but excluding the acquisition for resale or lease or rental of any bare land or serviced land.

## WHO CAN ACQUIRE IMMOVABLE PROPERTY?

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Any non-citizen individual

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A holder of Permanent Residence Permit

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A holder of an Occupation Permit as investor, professional and self employed

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A holder of a Residence Permit as a retired non-citizen

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A holder of a Residence Permit under the IRS/RES/PDS/IHS/SCS

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A company incorporated or registered under the Companies Act

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A société, where its deed of formation is deposited with the Registrar of Companies

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A limited partnership under the Limited Partnerships Act

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A trust, where the trusteeship services are provided by a qualified trustee, under the Trusts Act

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A Foundation under the Foundations Act

*The Non-Citizens (Property Restriction) Act was amended in December 2016 to allow any non-citizen, with or without a registration certificate as investor, to purchase or otherwise acquire an immovable property for business purposes with the prior authorisation from EDB.*

## 2. SUBMISSION OF AN APPLICATION TO THE EDB

1. All applications shall be made to the Chief Executive Officer of EDB.
2. An application shall be considered as complete and ready for processing by EDB at the date by which all the required information, particulars and documents have been duly submitted.
3. An application may be submitted by the applicant or a designated third party (notary, consultant, project developer, real estate agency).



### DOCUMENTS & INFORMATION REQUIRED TO BE SUBMITTED IN THE APPLICATION

#### MANDATORY DOCUMENTS

1. An application form duly filled in and signed by the director of the company making the application
2. Certificate of incorporation and register of shareholders of the company
3. Business plan with full details on:
  - a. Background of shareholders/promoters
  - b. The project and implementation schedule
  - c. Project financing
4. A site plan drawn by a sworn land surveyor showing the extent and precise location of the property
5. A Valuation report of the immovable property from a chartered valuation surveyor
6. A presale agreement (*compromis de vente*) between the vendor and the buyer endorsed by a Notary Public or a letter of reservation in case of lease of property
7. Proof of funds emanating from a bank or a qualified institution for the:
  - a. Acquisition of the property
  - b. Implementation of the project

#### ADDITIONAL DOCUMENTS

1. Where there shall be construction works, an Outline Planning Permission (OPP) from the local authority
2. Where an application is submitted by a third party (consultant), a Power of Attorney or a mandate letter given by the applicant to the third party
3. In case of touristic activities such as hotel development, operation of pleasure crafts, restaurant, tour operators, etc, a Clearance from the Ministry of Tourism.

In addition to the above listed documents, **additional documents** are required to be provided for the different types of applicant:

#### INDIVIDUAL NON-CITIZEN

- Duly authenticated copy of first 5 pages of passport
- KYC or a bank reference from a local or international recognized bank

Note: Should the property be acquired jointly, a marriage certificate and a certified copy of passport of the spouse must be submitted

#### COMPANY

- Certificate of Registration evidencing the company is registered as a foreign company under the Companies Act 2001 or Certificate of Incorporation under the Companies Act 2001
- A true certified copy of the register of shareholder(s) and/or certified documents showing ultimate beneficiaries of the company where applicable
- Duly authenticated copy of first 5 pages of passport of shareholder(s)
- KYC or a bank reference from a recognised local or international bank

#### SOCIÉTÉ

- Evidence of the Société having a file number with the Registrar of Companies and deed of formation deposited with Registrar of Companies
- Status of the Société
- Duly authenticated copy of first 5 pages of passport of active member(s)
- KYC or a bank reference from a recognised local or international bank

#### TRUST

- A copy of the Trust deed
- Evidence from the Financial Services Commission that the trustee is a qualified trustee under the Trusts Act 2001
- Details of the beneficiary, trustee and settlor
- Duly authenticated copy of first 5 pages of passport of each active beneficiary
- KYC or a bank reference from a recognised local or international bank

#### LIMITED PARTNERSHIP

- Partnership agreement
- Registration certificate of the Limited Partnership by the Registrar of Companies
- Duly authenticated copy of first 5 pages of passport of active partner(s)
- KYC or a bank reference from a recognised local or international bank

#### FOUNDATION

- The charter of Foundation
- Registration certificate of the Foundation by the Registrar of Companies
- Details of the beneficiary, founder, secretary and council
- Duly authenticated copy of first 5 pages of passport of each active beneficiary
- KYC or a bank reference from a recognised local or international bank

The application, consisting of a duly filled application form (see end of this document) and the relevant documents applicable as described, can be submitted either in hard copies at the head office of the EDB or through email at the following address : [hpd@edbmauritius.org](mailto:hpd@edbmauritius.org)

The information required during the processing of an application are not limited to the documents listed and described above.

**The EDB reserves the right to require or request any additional information, document, or particulars during the determination of an application.**

The EDB will, in as far as possible, acknowledge the receipt of an application within 5 working days of its submission.

The timeline of determination of an application is not prescribed and can vary between 4 to 8 weeks. This however should not be construed as a standard processing time as applications are different from one another.

### 3. CONDITIONS ATTACHED TO THE ACQUISITION

The **authorisation** issued by EDB is valid for the period ending 6 months and is issued generally subject to the following terms and conditions:

- a) The immovable property shall be used exclusively for the purpose for which the authorisation was provided.
- b) The company shall not transfer or use the property for purposes other than those specified in the authorisation without prior clearance of the EDB.
- c) The company shall not dispose of the property at any time without prior approval from the EDB.
- d) The shares of the company shall not in any manner be disposed of without prior approval of the EDB or PMO, as prescribed under the Non-Citizens (Property Restriction) Act.
- e) The company shall not engage in any form of property speculation whatsoever.
- f) The land duties and taxes shall be paid on the present market value of the immovable property, which may be subject to review by the Registrar General.
- g) All licence, authorization, permission, or consent (however described), must be sought for and obtained from relevant authorities prior to the start of operations.
- h) Where the property is acquired for construction of a building:- The company shall, unless prevented by circumstances beyond its control, complete the construction of the building and the installation of its plant/machinery within a period of eighteen (18) months as from the date of signature of the deed witnessing the transfer of the immovable property.

or

Where the property acquired is a building or part of a building:- The company shall, unless prevented by circumstances beyond its control, complete the installation of its equipment or other machinery and start its operation within a period of six (6) months as from the date of signature of the deed witnessing the transfer of immovable property.

or

Where the property is acquired under 'vente en état futur d'achèvement' (VEFA) :- The company shall, unless prevented by circumstances beyond its control, complete the installation of its equipment or other machinery and start its operation within a period of six (6) months as from the date of taking possession of property acquired on the basis of a plan.

## CONSEQUENCE FOR NON-COMPLIANCE TO TERMS AND CONDITIONS

Under the Non-Citizens (Property Restriction) Act, any property held by a non-citizen without an approval or that does not meet a condition of the approval granted is considered void.

The subject property is taken into possession by the Curator who has the obligation to cause it to be sold. The proceeds of the sale after deduction of all charges is paid to the non-citizen.

## DUTY AND TAXES ON ACQUISITION

Duty	Rates
<b>Land Transfer Tax for property</b> <i>(payable by the seller of the property on the value of the property)</i>	5% of the value of the property
<b>Registration Duty</b> <i>(payable by the buyer on the value of the property)</i>	5% of the value of the property

## RESALE (DISPOSAL) OF THE IMMOVABLE PROPERTY

The immovable property acquired shall be disposed of **only after** obtaining prior approval of the EDB. The Subsequent buyer will have to submit a new application for acquisition of property as per the previously outlined requirements, which will follow similar processing procedures.

## 4. FREQUENTLY ASKED QUESTIONS (FAQ)

When is a company considered as non-citizen?

A company is considered as a non-citizen if a non-citizen individual or entity hold shares in the company, irrespective of the number of shares held.

Are there any processing fees to be paid to the EDB when submitting an application?

There are no processing fees when submitting an application for acquisition of property for business purpose.

Can a property be acquired for the development of office space for re-sale or lease?

Yes

Can a residence be acquired and converted into a commercial purpose building?

No, residential property cannot be acquired other than under the residential schemes approved by the EDB.

Should the non-citizen apply for an occupation permit as Investor after acquiring the immovable property?

The non-citizen may apply for an occupation permit.

Should the promoter/non-citizen acquire the property first and then apply for the relevant permits and licences required for the business activity ?

It is advisable that the promoter submits applications to the relevant authorities for the different permits in parallel to the request submitted for an authorisation from the EDB for the acquisition of the property.

**APPLICATION FOR ACQUISITION OR LEASE OF  
IMMOVABLE PROPERTY FOR BUSINESS PURPOSES**

Section 3(3)(c)(iv) of Non-Citizens (Property Restriction) Act

Please note that the submission of this application constitutes a formal request for EDB to process the application and issue a certificate for a non-citizen to acquire an immovable property for business purposes.

**Date:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Applicant / Company name :** ▼

**Telephone:**

**Fax:**

**Email:**

**Mailing Address**

**TYPE OF ACQUISITION (Cross as appropriate)**

Land		Lease of land	
Building		Lease of building	
Land and Building		Lease of land and building	
Part of a building		Lease of part of building	

**DESCRIPTION OF IMMOVABLE PROPERTY**

Location of immovable property	
Size of immovable property <i>(indicate acreage for land and square footage for building)</i>	
Price of acquisition of immovable property	
Name of present owner	

**BUSINESS ACTIVITY (Cross as appropriate)**

Hotel, PDS, Leisure, Shopping Mall		Biomedical and Knowledge	
Information and Communication Technology		Financial Services	
Freeport, Logistics and Seafood		Fashion Design and Garments	
Manufacturing and Light Processing		Other, please specify:	

**DOCUMENTS SUBMITTED (Cross as appropriate)**

<b>1</b>	A statement listing the reasons for which the application is being made	<b>4</b>	A valuation report from a recognized chartered valuation surveyor
<b>2</b>	A site plan from sworn land surveyor showing the extent and precise location of the immovable property	<b>5</b>	A letter from a local or international recognized bank showing that the applicant has the necessary funds to finance the acquisition
<b>3</b>	An endorsed presale agreement (compromis de vente) between the vendor and buyer accompanied by an attestation from a Notary Public.	<b>6</b>	A letter of reservation from the lessor
		<b>7</b>	Proposed lease agreement from the lessor

**CERTIFICATION**

I, \_\_\_\_\_ hereby apply on behalf of \_\_\_\_\_ for a certificate from the Economic Development Board pursuant to Section 3(3)(c)(iv) of Non-Citizens (Property Restriction) Act and further declare that the particulars given are, to the best of my knowledge and belief, true and correct.

Position held: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Seal: \_\_\_\_\_



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