



BOARD OF INVESTMENT

GUIDELINES

**Acquisition or Lease of Immovable
Property for Business Purposes by
Non-Citizen**

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ACQUISITION OF IMMOVABLE PROPERTY BY NON-CITIZEN

A non-citizen **cannot hold or purchase or acquire immovable property** in Mauritius unless he gets the approval to acquire that property.

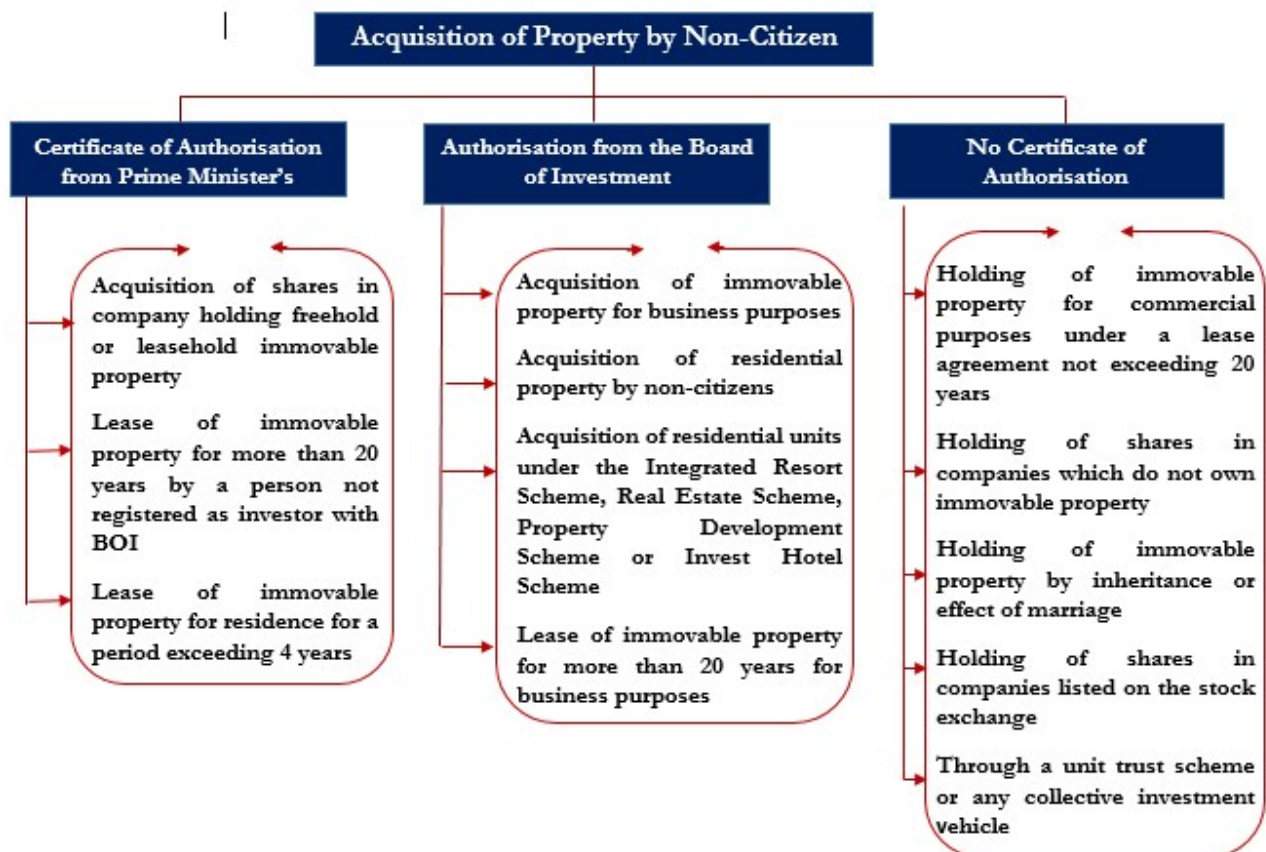
Thus,

- 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.

AUTHORISATION UNDER 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 granted, either by:

1. Prime Minister's Office
- OR
2. Board of Investment (BOI)



The Non-Citizens (Property Restriction) Act has been 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 BOI.

DEFINITION OF BUSINESS PURPOSE

Business purpose means: -

- a) 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;
- b) the development of residential properties developed under the Smart City Scheme or Property Development Scheme; and
- c) 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.

ELIGIBILITY

The following non-citizens are eligible to submit an application to BOI to acquire or lease immovable property for business purposes:

- a) Any non-citizen
- b) A holder of Permanent Residence Permit
- c) A holder of an Occupation Permit as investor, professional and self employed
- d) A holder of a Residence Permit as a retired non-citizen
- e) A holder of a Residence Permit under the IRS/RES/PDS/IHS/SCS
- f) A company incorporated or registered under the Companies Act
- g) A société, where its deed of formation is deposited with the Registrar of Companies
- h) A limited partnership under the Limited Partnerships Act
- i) A trust, where the trusteeship services are provided by a qualified trustee, under the Trusts Act
- j) A Foundation under the Foundations Act

SCREENING OF APPLICATIONS SUBMISSION OF APPLICATION

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

DOCUMENTS TO BE SUBMITTED AT TIME OF APPLICATION

All applications must also be accompanied by the following 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
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 from a sworn land surveyor showing the extent and precise location of the property
5. Valuation report of the immovable property from a valuation surveyor
6. A presale agreement (compromis de vente) between the vendor and buyer drawn up by a Notary Public or a letter of reservation in case of lease of property
7. Proof of funds emanating from a bank for the:
 - a. Acquisition of the property
 - b. Implementation of the project
8. Where there shall be, construction works, Outline Planning Permission from the local authority
9. 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
10. In case of touristic activities such as hotel development, operation of pleasure crafts, restaurant, tour operators, etc, a Letter of Intent from the Tourism Authority

In the case where the property will be acquired by a non-citizen in his/her own name the following additional documents must be submitted to BOI:

- 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

In the case of a company, the following additional documents must be submitted to BOI:

- 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)
- Duly authenticated copy of first 5 pages of passport of shareholder(s)
- KYC or a bank reference from a local or international recognised bank

In the case of a Société, the following additional documents must be submitted to BOI:

- 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 local or international recognised bank

In the case of a Trust, the following additional documents must be submitted to BOI:

- 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 local or international recognised bank

In the case of a Limited Partnership, the following additional documents must be submitted to BOI:

- 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 local or international recognised bank

In the case of a Foundation, the following additional documents must be submitted to BOI:

- 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 local or international recognised bank

DUTY AND TAXES ON ACQUISITION

Duty	Rates
Land Transfer Tax for property (payable by the seller of the property on the value of the property)	5% of the value of the property
Registration Duty (payable by the applicant on the value of the property)	5% of the value of the property

CONDITIONS ATTACHED TO THE ACQUISITION

The authorisation issued by BOI 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 application was provided;
- b) The company shall not transfer or use the property for purposes other than those specified in the approval without prior clearance of the Board of Investment;
- c) The company shall not dispose of the property at any time without prior approval from the Board of Investment;
- d) The shares of the company are not in any manner disposed of without prior approval 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; and
- 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 is acquired is part 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:- 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 void.

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