

THE NON-CITIZENS (PROPERTY RESTRICTION) (AMENDMENT) BILL
(No. VI of 2021)

Explanatory Memorandum

The main object of this Bill is to amend the Non-Citizens (Property Restriction) Act to provide that a foundation, under the Foundations Act, which has a person who is not a citizen of Mauritius as a founder, a beneficial owner, an ultimate beneficial owner or a beneficiary, shall not hold, dispose of, purchase or otherwise acquire property without prior authorisation under the Act.

2. Accordingly, the definition of “acquire”, “hold” or “purchase” is being broadened so as to include the distribution of property to a beneficiary under the Foundations Act.

3. In addition, provisions are being made so that a non-citizen who disposes of a property shall also seek prior authorisation under the Act.

4. As a consequence of the amendments being brought to the Non-Citizens (Property Restriction) Act, amendments are also being brought to the Foundations Act.

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Interpretation
3. Section 2 of principal Act amended
4. Section 3 of principal Act amended
5. Section 5 of principal Act amended
6. Section 6 of principal Act amended
7. Consequential amendment

A BILL

To amend the Non-Citizens (Property Restriction) Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Non-Citizens (Property Restriction) (Amendment) Act 2021.

2. Interpretation

In this Act –

“principal Act” means the Non-Citizens (Property Restriction) Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) by deleting the definitions of “acquire”, “hold” or “purchase” and replacing them by the following definitions –

“acquire”, “hold” or “purchase” –

- (a) includes the distribution of property to a beneficiary under the Foundations Act; but

- (b) does not include the burdening of a property with a mortgage or charge;
- (b) in the definition of “non-citizen”, by adding the following new paragraph, the word “or” being added at the end of paragraph (c) and the word “or” being deleted at the end of paragraph (b)(ii) –
 - (d) a foundation which has a person who is not a citizen of Mauritius as –
 - (i) a founder;
 - (ii) a beneficial owner or an ultimate beneficial owner; or
 - (iii) a beneficiary,under the Foundations Act;
- (c) in the definition of “share”, in paragraph (a), by deleting the words “holds or purchases or otherwise acquires” and replacing them by the words “holds, disposes of, purchases or otherwise acquires”.
- (d) by inserting, in the appropriate alphabetical order, the following new definition –

“dispose of” includes the burdening of a property with a mortgage or charge;

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended –

- (a) in subsection (1) –
 - (i) by inserting, after the words “hold,”, the words “dispose of,”;
 - (ii) in paragraph (c), by inserting, after the words “held,”, the words “disposed of,”;
- (b) in subsection (2), by inserting, after the words “hold,”, the words “dispose of,”;

- (c) in subsection (3) –
 - (i) in paragraph (b) –
 - (A) in subparagraph (i), by inserting, after the words “holds,”, the words “disposes of,”;
 - (B) in subparagraph (ii), by inserting, after the words “holds,”, the words “disposes of,”;
 - (ii) in paragraph (c)(i), by inserting, after the words “holds,”, the words “disposes of,”.

5. Section 5 of principal Act amended

Section 5 of the principal Act is amended, in subsection (2), by inserting, after the words “held,”, the words “disposed of,”.

6. Section 6 of principal Act amended

Section 6 of the principal Act is amended, in subsection (1), by inserting, after the word “hold”, the words “, dispose of”.

7. Consequential amendment

The Foundations Act is amended –

- (a) in section 4 –
 - (i) in subsection (2), by inserting, after the words “and endows”, the words “, subject to the Non-Citizens (Property Restriction) Act,”;
 - (ii) in subsection (3), by inserting, after the words “any other enactment”, the words “but subject to the Non-Citizens (Property Restriction) Act”;
 - (b) in section 11, in subsection (3), by deleting the word “Any” and replacing it by the words “Subject to the Non-Citizens (Property Restriction) Act, any”.
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