

# JOURNAL OF LAWS OF THE REPUBLIC OF POLAND

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Item 729

## **ORDINANCE BY THE MINISTER OF INTERIOR<sup>1</sup>**

of 20 June 2012

### **on the detailed information and types of documents to be submitted by a foreigner applying for issuing a permit for the acquisition of real estate**

Pursuant to Article 3f of the Act of 24 March 1920 on the acquisition of real estate by foreigners (Dz. U. [Journal of Laws] of 2004 No 171, item 1758, as amended.)<sup>2</sup>, it is hereby ordained as follows:

§ 1. The ordinance specifies:

- 1) detailed information about the circumstances indicated in the application for issuing the permit, referred to in Article 1a(3) and in Article 3e(5) of the Act of 24 March 1920 on the acquisition of real estate by foreigners, hereinafter referred to as “the Act”;
- 2) types of documents that the foreigner applying for issuing the permit is obliged to attach to the application for issuing the permit;
- 3) model of a declaration submitted by the foreigner applying for issuing the permit for the acquisition of real estate covering in total more than fifteen plots of land together with a model list of real estate;
- 4) model of a declaration submitted by a company whose shares or stocks are to be acquired, taken up or subject to any other legal transaction for the benefit of the foreigner, along with a model list of real estate owned by this company should it be an owner or perpetual user of real estate covering in total more than fifteen plots of land, in connection with the foreigner’s application for issuing the permit referred to in Article 3e of the Act.

§ 2. The application for issuing the permit for the acquisition of real estate should include detailed information about:

- 1) designation of the applicant:
  - a) in case of a natural person – name, surname, nationality and address of residence,

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<sup>1</sup> The Minister of Interior is in charge of the government administration division – interior, pursuant to § 1(2) of the Regulation by the Prime Minister of 18 November 2011 on detailed scope of activities of the Minister of Interior (Dz. U. [Journal of Laws] No 248, item 1491).

<sup>2</sup> Amendments to the consolidated text of the above-mentioned Act have been published in Dz. U. of 2005 No 94, item 788 and No 183, item 1538, of 2008 No 180, item 1112 and No 216, item 1367 and of 2011 No 85, item 458.

- b) in case of a legal person and non-corporate company – name, address of registered office, subject of activity, names and surnames of the members of the Management Board, as well as information about shareholders or stockholders, including:
  - in case of a natural person – name, surname, nationality and address of residence,
  - in case of a legal person and non-corporate company – name, address of registered office,and the number of votes held by individual shareholders or stockholders at the meeting of shareholders or at the general meeting, expressed as a percentage;
- 2) designation of real estate being acquired:
  - a) in case of a land property – acquired legal title to the property, street, city, gmina and voivodeship, number of the record parcel, area in hectares, land and mortgage register number and characteristic features of buildings,
  - b) in case of a building – serial number of the building, usable floor area of the building in square metres, street, city, gmina and voivodeship,
  - c) in case of a premises being a separate object of ownership – serial number of the building and the premises, street, city, gmina and voivodeship, usable floor area in square metres and share in the jointly owned property where the premises is located;
- 3) designation of the seller:
  - a) in case of a natural person – name, surname, address of residence,
  - b) in case of a legal person – name, address of registered office;
- 4) designation of the type of a legal event, on the basis of which the acquisition of real estate is to take place;
- 5) purpose of the acquisition of real estate and where the acquisition of real estate is to take place for the purposes of pursued business or agricultural activity – also the planned method of using real estate, including investment projects planned to be implemented there;
- 6) source of funds for the acquisition of real estate.

§ 3. 1. The foreigner applying for issuing the permit for the acquisition of real estate is obliged to attach to the application, referred to in para. 2, the following documents:

- 1) designating its legal status:
  - a) in case of a natural person – a duplicate or copy of a document with a photograph confirming the identity, with an indication of the nationality, date and place of birth and, in case where the acquisition of real estate is to take place for the purposes of pursued business activity – an extract from the relevant register or records,
  - b) in case of a legal person and non-corporate company – an excerpt or extract from the relevant register issued not earlier than 3 months prior to the date of submission of the application;
- 2) designating real estate, issued not earlier than 6 months before the date of submission of the application:
  - a) extract from the land and mortgage register or a certificate from the collection of documents,
  - b) certified copy of the entry in the land register together with an extract from the record file,

- c) in case where the current designation of real estate has not been provided in the land and mortgage register – official documents being a basis for making changes to the designation of real estate,
  - d) extract from the currently applicable spatial development plan, or a decision on the location of the public investment project or a decision on the conditions of development, if issued, and in the absence of the local spatial development plan – a document issued by the competent authority certifying the absence of the plan;
- 3) seller's declaration expressing its will to sell real estate for the benefit of the foreigner, and, in case of the acquisition of real estate as a result of the process of merger (split) of companies – the agreed merger (split) plan along with attachments – draft resolutions on merger (split) and draft agreement or statute of the acquiring, spin-off or newly established company.

2. The foreigner applying for issuing the permit for the acquisition of the premises being a separate object of ownership is not obliged to attach to the application the documents referred to in para. 1(2)(b)-(d). In case where no land and mortgage register is established for the premises, the foreigner is obliged to submit an extract from the land and mortgage register and a certified copy of the entry in the land register regarding real estate developed with the building, in which the premises being acquired is located.

§ 4. 1. If in the application for issuing the permit for the acquisition of real estate, the foreigner pointed out the circumstances laid down in Article 1a(2)(4) of the Act, it is required to attach the following documents, issued not earlier than 3 months before the date of submission of the application:

- 1) copy of or an extract from the Business Register of the National Court Register in which the foreigner acts as a member of the governing body; certificate from the competent tax office stating that the business operator, in which the foreigner acts as a member of the governing body, is not in arrears with payments of budgetary receivables;
- 2) certificate from the competent branch of the Social Insurance Company (ZUS) stating that the business operator, in which the foreigner acts as a member of the governing body, is not in arrears with contributions to the Social Insurance Fund.

2. If in the application for issuing the permit for the acquisition of real estate, the foreigner pointed out the circumstances referred to in Article 1a(2)(5) of the Act, it is required to attach documents confirming pursuing business or agricultural activities, in particular copies of obtained concessions and permits in the territory of the Republic of Poland.

§ 5. The foreigner, referred to in Article 1(2)(2)-(4) of the Act, applying for issuing the permit for the acquisition of real estate, is also obliged to submit documents demonstrating the possession of financial resources to purchase real estate and a capacity to finance activities within the scope referred to in § 2(5), issued not earlier than 3 months prior to the date of submission of the application:

- 1) certificate from the bank, where the purchaser, or its shareholders or stockholders, has/have its/their basic current account, specifying the amount of possessed financial resources and its creditworthiness and solvency;
- 2) certificate from the competent tax office stating that the purchaser is not in arrears with payments of budgetary receivables;

- 3) certificate from the competent branch of the Social Insurance Company (ZUS) stating that the purchaser is not in arrears with contributions to the Social Insurance Fund.

§ 6. The application for issuing the permit referred to in Article 3e of the Act should contain the detailed information on:

- 1) designation of the foreigner applying for issuing the permit for the acquisition, take-up or another legal transaction regarding stocks and shares:
  - a) in case of a natural person – name, surname, nationality and address of residence,
  - b) in case of a legal person and non-corporate company – name, address of registered office, subject of activities, names and surnames of the members of the Management Board as well as information about shareholders or stockholders, including:
    - in case of a natural person – name, surname, nationality and address of residence,
    - in case of a legal person – name, address of registered office,

and the number of votes held by individual shareholders or stockholders at the meeting of shareholders or at the general meeting, expressed as a percentage;

- 2) designation of the company whose shares or stocks are to be acquired, taken up or subject to any other legal transaction for the benefit of the foreigner, indicating: company, address of registered office, subject of activity, amount of share capital, members of the Management Board, shareholders or stockholders, including:
  - a) in case of a natural person – name, surname, nationality and address of residence,
  - b) in case of a legal person – name, address of registered office,

and the number of votes held by individual shareholders or stockholders at the meeting of shareholders or at the general meeting, expressed as a percentage;

- a) designation of companies based in the territory of the Republic of Poland and being subsidiaries of the company, referred to in point 2, being owners or perpetual users of real estate in the territory of the Republic of Poland, which shall become foreigners within the meaning of the Act as a result of the acquisition, take-up or any other legal transaction for the benefit of the foreigner regarding shares or stocks of the company referred to in para. 2;
- b) designation of real estate owned by or held in perpetuity by the company whose shares or stocks are to be acquired, taken up or subject to any other legal transaction for the benefit of the foreigner and real estate owned by or held in perpetuity by its subsidiaries, which as a result of any of these activities will become controlled by the foreigner or foreigners, indicating: in case of a land property – acquired legal title to the property, street, city, gmina and voivodeship, number of the record parcel, area in hectares, land and mortgage register number and characteristic features of buildings, in case of a building – serial number of the building, usable floor area of the building in square metres, street, city, gmina and voivodeship,
- c) in case of a premises being a separate object of ownership – serial number of the building and the premises, street, city, gmina and voivodeship, usable floor area in square metres and share in the jointly owned property where the premises is located;

- 3) designation of the seller, including, in case of a natural person – name, surname, address of residence and in case of a legal person – name and address of registered office;
- 4) determination of:
  - a) a method of the acquisition or take-up of shares or stocks, with an indication of their number and giving, as a percentage, the number of votes to which, at the meeting of shareholders or at the general meeting, the number of acquired or taken up shares or stocks will correspond,
  - b) other legal transaction relating to shares or stocks in the company, as a result of which the commercial company based in the territory of the Republic of Poland, being an owner or perpetual user of real estate in the territory of the Republic of Poland, becomes a controlled company.

§ 7. 1. The foreigner applying for issuing the permit referred to in Article 3e of the Act, is obliged to attach to the application referred to in §6 the following documents:

- 1) designating its legal status:
  - a) in case of a natural person – a duplicate or copy of a document with a photograph confirming the identity, with an indication of the nationality, date and place of birth,
  - b) in case of a legal person and non-corporate company – an excerpt or extract from the relevant register issued not earlier than 3 months prior to the date of submission of the application;
- 2) designating the legal status of the company whose shares or stocks the application refers to:
  - a) copy of the National Court Register issued not earlier than 3 months before the date of submission of the application,
  - b) contract or articles of association with all amendments or a consolidated text,
  - c) current excerpt from the share or stock register;
- 3) designating the legal status of the seller of shares or stocks:
  - a) in case of a natural person – a document confirming the identity, with an indication of the nationality, date and place of birth,
  - b) in case of a legal person and non-corporate company – an excerpt or extract of the relevant business register issued not earlier than 3 months prior to the date of submission of the application;
- 4) designating real estate owned by or held in perpetuity by the company whose shares or stocks are to be acquired, taken up or subject to any other legal transaction for the benefit of the foreigner and real estate owned by or held in perpetuity by its subsidiaries, which as a result of any of these activities will become controlled by the foreigner or foreigners, issued not earlier than 6 months prior to the date of submission of the application:
  - a) extract from the land and mortgage register,
  - b) certified copy of the entry in the land register together with an extract from the record file,
  - c) in case where the current designation of real estate has not been provided in the land and mortgage register – official documents being a basis for making changes to the designation of real estate,
  - d) extract from the currently applicable spatial development plan, or a decision on the location of the public investment project or a decision on the conditions of development, if issued, and in the absence of the local spatial development

plan – a document issued by the competent authority certifying the absence of the plan;

- 5) declaration by the seller of shares or stock expressing its will to sell them for the benefit of the foreigner, with an indication of the form of sale, number of sold shares or stocks along with the number of corresponding votes at the meeting of shareholders or at the general meeting expressed as a percentage and, in case of the acquisition or take-up of shares or stocks as a result of the process of merger (split) of companies – the agreed merger (split) plan along with attachments – draft resolutions on merger (split) and draft agreement or statute of the acquiring, spin-off or newly established company

2. The foreigner applying for issuing the permit for the acquisition or take-up of shares or stocks of the company being an owner of the premises which constitutes a separate object of ownership is not obliged to attach to the application the documents, referred to in para 1(4)(b)-(d).

§ 8. 1. The foreigner applying for issuing the permit for the acquisition of real estate covering in total more than fifteen plots of land, shall submit a declaration together with the list of purchased real estate being an integral part of the application, according to the model declaration laid down in Annex 1 to the ordinance.

2. The foreigner applying for issuing the permit referred to in Article 3e of the Act, in case where the company, whose shares or stocks are to be acquired, taken up or subject to any other legal transaction for the benefit of the foreigner, is an owner or perpetual user to real estate covering in total more than fifteen plots of land, submits a declaration together with a list of real estate owned or held in perpetuity by the company, according to the model declaration referred to in Annex 2 to this declaration.

3. The provision of para. 2 shall apply accordingly to subsidiaries of the company whose shares or stocks are to be acquired, taken up or subject to another legal transaction for the benefit of the foreigner if, as a result of any of these activities, subsidiaries become controlled by the foreigner or foreigners.

§ 9. 1. The copies of the documents referred to in this ordinance shall be attached to the application for issuing the permit for the acquisition of real estate, certified as true copies.

2. The documents in a foreign language shall be submitted together with a translation into Polish certified by a sworn translator.

§ 10. The Ordinance by the Minister of Interior and Administration of 26 April 2004 on the detailed information and types of documents to be presented by a foreigner applying for issuing the permit for the acquisition of real estate (Dz. U. No. 94, item 92 and 2006 No 226, item 1653) becomes invalid.

§ 11. This Ordinance shall enter into force after 14 days from the date of promulgation thereof.

Minister of Interior: *J. Cichocki*

***MODEL***

.....  
(place, date)

**DECLARATION**

In connection with the application of the foreigner.....  
.....  
.....  
(data of the applicant: name, surname, address of residence/business name of a company/name of a legal person,  
address of registered office)

for issuing the permit for the acquisition of real estate, I/we declare\* that the applicant intends to become an owner or perpetual user of real estate specified in the list attached to this declaration.

.....  
.....  
.....  
(signature of the applicant or person/persons authorised to represent the applicant)

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\* Select as appropriate

.....  
 .....  
 .....  
 (data of the applicant: name, surname, address of residence/  
 business name of a company/name of a legal person,  
 address of registered office)

**List of real estate being the subject of the application for issuing the permit for the acquisition  
of real estate**

No.	Location of real estate (place, gmina, voivodeship)	Acquired legal title of real estate (ownership or perpetual usufruct), acquired share in real estate	Area (in ha); in case of residential and business premises (in m <sup>2</sup> )	No of the record parcel	No of land and mortgage register and name of the court	Are there any buildings in the area of real estate YES – NO	Is real estate or part thereof agricultural land YES – NO	Is real estate or part thereof forest land YES – NO	Name, surname, address of residence/name, address of registered office of the seller of real estate
1	2	3	4	5	6	7	8	9	10
1									
	Total area of plots of land		.....						

.....  
(place, date)

.....  
 .....  
 .....

(signature of the applicant or person/persons authorised to represent the applicant)<sup>1</sup>

<sup>1</sup> If the list has more than one page, signatures on each page

**MODEL**

.....  
(place, date)

**DECLARATION**

In connection with the application of.....

.....  
.....  
(data of the foreigner: name, surname, address of residence/business name of a company/name of a legal person,  
address of registered office)

for issuing, pursuant to Article 3e of the Act of 24 March 1920 on the acquisition of real estate by foreigners (Dz. U. of 2004, No 171, item 1758, as amended), the permit for the acquisition/take-up/any other legal transaction regarding\* shares/stocks\* of the company

.....  
.....  
.....  
(business name and address of registered office of the company whose shares or stocks are to be acquired, taken up or subject to any other legal transaction for the benefit of the foreigner)

we, the undersigned, authorised to represent the company whose shares/stocks\* are to be acquired/taken up/subject to any other legal transaction\* for the benefit of the foreigner, pursuant to Article 75(2) of the Code of Administrative Procedure, being fully advised on the liability for perjury referred to in Article 233 of the Penal Code and on the right to refuse to testify under Article 83 of the Code of Administrative Procedure, declare that the company is the owner/perpetual user\* of real estate specified in the list attached to this declaration.

- 1) .....
  - 2) .....
  - 3) .....
- (signature of the person/persons authorised to represent the company)

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\* Select as appropriate

List of real estate owned or held in perpetuity by the company

.....  
 .....  
 .....  
 (business name and address of registered office of the company)

No.	Location of real estate (place, gmina, voivodeship)	Due legal title of real estate (ownership or perpetual usufruct), due share in real estate	Area (in ha); in case of residential and business premises (in m <sup>2</sup> )	No of the record parcel	No of land and mortgage register and name of the court	Are there any buildings in the area of real estate YES – NO	Is real estate or part thereof agricultural land YES – NO	Is real estate or part thereof forest land YES – NO
1	2	3	4	5	6	7	8	9
1			.....					
	Total area of plots of land							

.....  
 (place, date)

.....  
 .....  
 .....

(signature of the person/persons authorised to represent the company)<sup>1</sup>

<sup>1</sup> If the list has more than one page, signatures on each page