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2005-10-01	amended	Dz.U.2005.94.788	Article 3
2005-10-24	amended	Dz.U.2005.183.1538	Article 185
2008-10-25	amended	Dz.U.2008.180.1112	Article 1
2009-01-01	amended	Dz.U.2008.216.1367	Article 2
2011-10-23	amended	Dz.U.2011.85.458	Article 2

ACT

of 24 March 1920

on the acquisition of real estate by foreigners

(consolidated text)

Article 1. 1. The acquisition of real estate by a foreigner requires a permit. The permit is issued by way of an administrative decision by the minister of interior, if the Minister of National Defence does not raise any objection, and in case of agricultural real estate, if the minister of rural development does not raise any objection.

1a. The objection, referred to in para.1, is expressed, by way of a decision, within 14 days from the day of providing an interpellation by the minister of interior. In particularly justified cases, the minister of interior, upon request of the body entitled to raise the objection, extends the period of submitting thereof to 2 months from the day of providing an interpellation by the minister of interior.

1b. The refusal to issue the permit, referred to in para. 1, shall not require any application to the Minister of National Defense or the minister responsible for rural development.

2. The foreigner, within the meaning of this Act is:

- 1) natural person without Polish citizenship;
- 2) legal person based abroad;
- 3) non-corporate company of persons referred to in points 1 or 2, based abroad, established in compliance with the legislation of foreign states,
- 4) legal person and non-corporate commercial company based in the territory of the Republic of Poland, controlled directly or indirectly by persons or companies referred to in points 1, 2 and 3.

3. In case of the commercial company, the controlled company is, within the meaning of the Act, the company in which the foreigner or foreigners directly or indirectly possess more than 50% of votes at at the meeting of shareholders or at the general meeting, also as lienholder, user or on a basis of agreements with other persons, or have a dominant position within the meaning of the provisions of Article 4(1)(4)(b) or (c) or (e) of the Act of 15 September 2000 – Code of Commercial Companies (Dz. U. No 94, item 1037, of 2001 No 102, item 1117 and of 2003 No 49, item 408 and No 229, item 2276).

4. The acquisition of real estate within the meaning of this Act is the acquisition of the right of ownership to real estate or the right of perpetual usufruct, on the basis of any legal event.

5. The acquisition of a second house within the meaning of this Act is the acquisition by the foreigner referred to in Article 1(2)(1) of real estate intended for residential development or recreational purposes, which shall not be a permanent residence of the foreigner. This does not apply to the

acquisition of a separate residential premises within the meaning of the Act of 24 June 1994 on premises ownership (Dz. U. of 2000, No 80, item 903 and of 2004, No 141, item 1492).

Article 1 a. 1. The permit referred to in Article 1(1) is issued upon request of the foreigner if:

- 1) the acquisition of real estate by the foreigner does not pose any risk to the defensiveness, national security or public order and is not in contradiction with social policy and public health considerations,
- 2) the foreigner proves that there are the circumstances confirming its bonds with the Republic of Poland.

2. The circumstances confirming the foreigner's bonds with the Republic of Poland may include, in particular:

- 1) Polish nationality or Polish origin,
- 2) being married to a citizen of the Republic of Poland,
- 3) (1) having a temporary residence permit, with the exception of the permit granted pursuant to Article 53a(2) of the Act of 13 June 2003 on foreigners (Dz. U. of 2006, No 234, item 1694, as amended), permanent residence permit or European Community long-term residence permit,
- 4) membership in the governing body of business operators referred to in Article 1(2)(4),
- 5) pursuing business or agricultural activity in the territory of the Republic of Poland in compliance with the provisions of Polish law.

3. The application for issuing the permit should contain:

- 1) designation of the applicant and its legal status;
- 2) designation of real estate acquired;
- 3) designation of the seller;
- 4) determination of the legal form of the acquisition of real estate;
- 5) information about the purpose and possibility of the acquisition of real estate.

4. To the application referred to in para. 3, the foreigner applying for issuing the permit is obliged to attach the documents confirming the circumstances stated in the application and the circumstances referred to in para. 2, as well as any other documents allowing to determine the correctness of the acquisition of real estate.

5. The area of real estate acquired by the foreigner to satisfy its needs may not exceed 0,5 ha, and in case referred to in para. 2(5), it should be justified by actual needs arising from the nature of pursued business activity.

6. The acquisition of agricultural real estate by foreigners takes place additionally, with observance of the provisions of the National Agricultural Constitution Act of 11 April 2003 (Dz. U. No 64, item 592).

Article 2. 1. Prior to the issuance of a decision on the permit, the Minister of Interior(2) may:

- 1) request to submit evidence and information necessary to consider the application and to perform the verification referred to in point 2,
- 2) perform, also with the assistance of competent government administration bodies, the verification if the acquisition of real estate by the foreigner does not pose any risk to the defensiveness, national security or public order and if it is compliant with the interest of the State.

2. The Minister of Interior<sup>(3)</sup> may define, in the permit, special requirements for the foreigner intending to acquire real estate, upon the fulfillment of which the possibility of acquiring real estate shall be conditional.

Article 2 a. The minister of interior may apply to public administration bodies, professional organisations and state institutions other than referred to in Article 2(1)(2), for expressing their opinion and providing documents and information, in particular contained in the land and property register, necessary for the implementation of the tasks referred to in Article 1(1), Article 3e and Article 8(4).

Article 3. 1. The permit should specify, in particular:

- 1) buyer and seller,
- 2) subject of acquisition,
- 3) special requirements, in the situation laid down in Article 2(2).

2. The permit is valid for two years from the day of issuance thereof.

Article 3a. The decision on the permit for the acquisition of real estate located within the special economic area, established pursuant to separate provisions, should be issued within one month from the day of submitting the application by the party.

Article 3b. The proceeding on the issuance of the permit is terminated, if requested so by the foreigner who applied for initiation thereof and also if the owner or perpetual user declare that they do not intend to sell it to the foreigner applying for the permit.

Article 3c. The body issuing the decision or resolution in the proceeding pending pursuant to the provisions of the Act may desist from the factual justification if the defensiveness or national security require so.

Article 3d. 1. The foreigner intending to acquire real estate may apply for a promise of the issuance of the permit, hereinafter referred to as the “promissory note”. To the promissory note, the provisions of Articles 1 – 3c shall apply accordingly.

2. The promissory note is valid for one year from the day of issuing thereof.

3. The promissory note may also be issued upon request of the founders of the entity referred to in Article 1(2)(4).

4. During the validity period of the promissory note, the issuance of the permit may not be refused unless the actual state relevant to the decision on the matter changed.

Article 3e. 1. The acquisition or take-up by the foreigner of shares or stocks in the commercial company based in the territory of the Republic of Poland, as well as any other legal transaction concerning shares or stocks requires a permit by the minister of interior, if as a result the company being an owner or perpetual user of real estate in the territory of the Republic of Poland becomes a controlled company.

2. The acquisition or take-up by the foreigner of shares or stocks in 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, requires a permit by the minister of interior, if this company is a controlled company and shares or stocks are acquired or taken up by the foreigner not being a shareholder or stockholder of the company.

3. (4) The provisions of paras. 1 and 2 shall not apply to cases where stocks of the company have been admitted to public trading on the regulated market or the company is an owner or perpetual user of real estate referred to in Article 8(1)(1),(1a) and (5), subject to Article 8(3).

4. To the permits referred to in paras. 1 and 2, the provisions of Articles 1-3d shall apply accordingly.

5. The application for issuing the permit referred to in paras. 1 and 2, apart from the information referred to in Article 1a(3(1)-(3) should additionally contain:

- 1) designation of the company whose shares (stocks) are acquired, taken up or subject to any other legal transaction,
- 2) designation of the company that, as a result of the acquisition of shares (stocks) or any other legal transaction concerning shares (stocks) of any other commercial company, will become a controlled company,
- 3) determination of real estate constituting the property or held in perpetuity by the company which will become a controlled company or whose shares (stocks) are acquired or taken up by foreigners,
- 4) determination of the method of the acquisition or take-up of shares (stocks) or any other legal transaction concerning shares (stocks) in the company, as result of which the company being an owner or perpetual user of real estate in the territory of the Republic of Poland will become a controlled company.

Article 3f. The minister of interior shall determine, by way of an ordinance:

- 1) types of documents referred to in Article 1a(4),
- 2) detailed information concerning the circumstances stated in the application,
- 3) models of declarations submitted by foreigners with regard to the proceedings conducted by the minister competent for interior and concerning issuing the permit as well as lists attached to these declarations

- taking into account the diversified scope of information and documents submitted by foreigners referred to in Article 1(2).

Article 4. The minister of interior annually provides the Sejm, by 31 March, with a detailed report on the implementation of the Act, in particular on the number of permits issued, type and area as well as territorial location of real estate they refer to and the number of decisions refusing to issue the permit.

Article 5. Without submitting the permit granted by the Minister of Interior(5) and in case of establishing special requirements in the permit – also official documentary evidence on the fulfillment thereof, no legal actions may be taken and no entries of rights of property or rights of perpetual usufruct can be made.

Article 5a (deleted)

Article 6. 1. The acquisition of real estate by the foreigner in violation of the provisions of the Act is invalid.

2. In case of acquiring real estate in violation of the provisions of the Act, the court decides on the invalidity of the acquisition, also upon request of the village mayor (city mayor), starost, voivodship marshal or voivode, competent for the location of real estate, or upon request of the minister competent for interior.

3. The provisions of para. 1 and 2 shall apply accordingly to the acquisition or take-up of shares or stocks in the commercial company in violation of the provisions of Article 3e, yet the request referred to in para. 2 may also be submitted by any shareholder or stockholder of the company.

Article 7. 1. The provisions of the Act shall not apply to the transformation of the commercial company within the meaning of the provisions of Title IV, Section III of the Act of 15 September 2000 – Code of Commercial Companies.

2. (6) The provisions of the Act shall not apply to the acquisition of real estate by way of inheritance or specific bequest by persons entitled to intestate succession. If the national legislation of the inheritor does not provide for intestate succession, the Polish legislation shall apply.

3. If the foreigner, who acquired real estate constituting part of inheritance on the basis of last will, does not obtain a permit by the minister of interior based on the application submitted within two years from the day of opening the estate, the right of property or right of perpetual usufruct to real estate shall be acquired by persons that would be appointed to inheritance by statutory law.

3a. (7) If the foreigner, who acquired real estate on the basis of the specific bequest, does not obtain a permit by the minister of interior based on the application submitted within two years from the day of opening the estate, the right of property or right of perpetual usufruct to real estate are covered by inheritance. Then, the provisions of paras. 2 and 3 apply, however, the period of time referred to in para. 3, runs from the moment when the foreigner became aware of the fact that the right of property or right of perpetual usufruct had been covered by inheritance.

4. (8) The provisions of paras. 2-3a shall apply accordingly to shares or stocks of the commercial company being an owner or perpetual user of real estate in the territory of the Republic of Poland.

5. The provisions of the Act do not apply to the closed investment fund and open special investment fund open applying the rules and investment restrictions specified for the closed investment fund within the meaning of the provisions of the Act of 27 May 2004 on investment funds (Dz. U. No 144, item 1546).

Article. 7a. (deleted).

Article. 8.1. The following do not require obtaining the permit, subject to para. 3:

1) acquisition of a separate residential premises within the meaning of the Act of 24 June 1994 on premises ownership;

1a) acquisition of a separate business premises intended for garages or share in such premises, if it relates to satisfying the housing needs of the purchaser or owner of real estate or separate residential premises.

2) (9) acquisition of real estate by the foreigner residing in the Republic of Poland for at least 5 years following the granting of the permanent residence permit or European Community long-term residence permit,

3) (10) acquisition by the foreigner, being a spouse of a Polish citizen and residing in the Republic of Poland for least 2 years following the granting of the permanent residence permit or European Community long-term residence permit, of real estate that as a result of the acquisition shall constitute spousal joint property,

4) acquisition of real estate by the foreigner, if on the day of the acquisition it is entitled to intestate succession from the real estate seller and the real estate seller has been the owner or perpetual user thereof for at least 5 years,

5) acquisition by the entity referred to in Article 1(2)(4), for its statutory purposes, of undeveloped real estate whose total area in the entire country does not exceed 0,4 ha in cities,

6) acquisition of real estate by the foreigner, being a bank and also mortgagee, through taking over the ownership of real estate as a result of an unsuccessful auction under the enforcement proceedings,

7) acquisition or take-up by a bank, being a legal person referred to in Article 1(2)(1), of shares or stocks in the company referred to in Article 3e, in relation to the bank's claims resulting from carried out banking operations.

2. (11) It is not required to obtain the permit in case of foreigners who are citizens or business operators in the states being parties to the agreement on the European Economic Area or the Swiss Confederation, with the exception of the acquisition of:

- 1) agricultural and forest real estate, for the period of 12 years from the Republic of Poland's accession to the European Union,
- 2) second house, for the period of 5 years from the Republic of Poland's accession to the European Union.

2a. (12) It is not required to obtain the permit in case of foreigners who are citizens of the states being parties to the agreement on the European Economic Area or the Swiss Confederation in the periods laid down in para. 2, in case of:

- 1) acquisition of agricultural real estate located in the:
  - a) Dolnośląskie, Kujawsko-Pomorskie, Lubuskie, Opolskie, Pomorskie, Warmińsko-Mazurskie, Wielkopolskie, Zachodnio-Pomorskie Voivodeships – after the expiry of 7 years from concluding an agreement of lease with a certified date, if during this period they personally pursued agricultural activity and legally resided in the territory of the Republic of Poland,
  - b) Lubelskie, Łódzkie, Małopolskie, Mazowieckie, Podkarpackie, Podlaskie, Śląskie, Świętokrzyskie Voivodeships – after the expiry of 3 years from concluding an agreement of lease with a certified date, if during this period they personally pursued agricultural activity and legally resided in the territory of the Republic of Poland,

2) acquisition of a second house:

- a) if the buyer has been legally and continually residing in the territory of the Republic of Poland for at least 4 years,
- b) for the purpose of pursuing business activity consisting in providing tourist services, whereby this exemption does not include citizens of the Swiss Confederation.

2b. Citizens of the states being parties to the agreement on the European Economic Area or Swiss Confederation, who as of the day of the Republic of Poland's accession to the European Union were shareholders or stockholders of commercial companies based in the territory of the Republic of Poland, may include into the lease periods referred to in para. 2a(1) the period of lease of agricultural real estate by the company, if during this period, as shareholders or stockholders of the company, they personally pursued agricultural activity in that real estate and legally resided in the territory of the Republic of Poland.

3. Exemptions referred to in para. 1 do not apply to real estate located in the border area and agricultural land of the area exceeding 1 ha.

4. The minister of interior shall keep a register of real estate, shares and stocks acquired or taken up by foreigners without the permit in cases referred to in paras. 1, 2 and 2a, as well as a register of real estate, shares and stocks acquired or taken up by foreigners on the basis of required permits referred to in Article 1(1) and Article 3e(1) and (2).

5. The Council of Ministers shall determine, by way of an ordinance, the manner of proceeding and detailed rules of keeping the registers referred to in para. 4.

Article 8a. 1. Within 7 days of the day of drawing up, a notary sends the minister of interior an extract from a notary deed, by virtue of which the foreigner acquired or took up real estate, shares or stocks in the company being an owner or perpetual user of real estate.

2. The provisions of para. 1 shall apply accordingly to the court, when the acquisition of real estate took place on the basis of a valid decision and when the acquisition or take-up of shares or stocks is subject to entering in the business register.

Article 9 (deleted).

Article. 10. This Act takes effect in 8 days after promulgation thereof.

Endnotes:

1). Article 1a(2)(3):

- amended by Article 3(1) of the Act of 22 April 2005 amending the act on foreigners and the act on granting protection in the territory of the Republic of Poland and several other acts (Dz. U. 2005.94.788) with effect from 1 October 2005.

- amended by Article 2 of the Act of 24 October 2008 amending the act on foreigners and certain other acts (Dz. U.2008.216.1367), with effect from 1 January 2009.

2) currently: the minister competent for interior, pursuant to Article 4(1), Article 5(24) and Article 29 of the Act of 4 September 1997 on the governmental administration division (Dz. U.2003.159.1548), which entered into force on 1 April 1999.

3) currently: the minister competent for interior, pursuant to Article 4(1), Article 5(24) and Article 29 of the Act of 4 September 1997 on the governmental administration division (Dz. U.2003.159.1548), which entered into force on 1 April 1999.

4) Article 3e(3) amended by Article 185 of the Act of 29 July 2005 on trading in financial instruments (Dz. U.2005.183.1538) with effect from 24 October 2005.

5) currently: the minister competent for interior, pursuant to Article 4(1), Article 5(24) and Article 29 of the Act of 4 September 1997 on the governmental administration division (Dz. U.2003.159.1548), which entered into force on 1 April 1999.

6). Article 7(2) amended by Article 2(1) of the Act of 18 March 2011, amending the Civil Code Act and certain other acts (Dz. U.2011.85.458) with effect from 23 October 2011.

7) Article 7(3a) amended by Article 2(2) of the Act of 18 March 2011, amending the Civil Code Act and certain other acts (Dz. U.2011.85.458) with effect from 23 October 2011.

8) Article 7(4) amended by Article 2(3) of the Act of 18 March 2011, amending the Civil Code Act and certain other acts (Dz. U.2011.85.458) with effect from 23 October 2011..

9) Article 8(1)(2) amended by Article 3(2) of the Act of 22 April 2005 amending the act on foreigners and the act on granting protection in the territory of the Republic of Poland and several other acts (Dz. U.2005.94.788) with effect from 1 October 2005.

10) Article 8(1)(3) amended by Article 3(2) of the Act of 22 April 2005 amending the act on foreigners and the act on granting protection in the territory of the Republic of Poland and several other acts (Dz. U.2005.94.788) with effect from 1 October 2005.

11) Article 8(2) amended by Article 5 of the Act of 5 September 2008 amending certain acts in connection with the entry into force of the Protocol to the Agreement between the European Community and its Member States, of the first part and the Swiss Confederation, of the second part, on the free movement of persons (Dz. U.2008.180.1112) with effect from October 25, 2008.

12) Article 8(2a) amended by Article 5 of the Act of 5 September 2008 amending certain acts in connection with the entry into force of the Protocol to the Agreement between the European Community and its Member States, of the first part and the Swiss Confederation, of the second part, on the free movement of persons (Dz. U.2008.180.1112) with effect from October 25, 2008.

13) Article 8(2b) amended by Article 5 of the Act of 5 September 2008 amending certain acts in connection with the entry into force of the Protocol to the Agreement between the European Community and its Member States, of the first part and the Swiss Confederation, of the second part, on the free movement of persons (Dz. U.2008.180.1112) with effect from October 25, 2008.