

## Restrictions on Acquisition of Immovables Act

Passed 12 February 2003

(RT<sup>1</sup> I 2003, 23, 145),

entered into force 1 April 2003.

amended by the following Acts:

17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192;

15.06.05 entered into force 01.07.05 - RT I 2005, 37, 284;

17.12.03 entered into force 01.01.04 - RT I 2003, 88, 591.

### § 1. Purpose and scope of application of Act

(1) This Act provides the restrictions on the acquisition of immovables arising from public interest. For the purposes of this Act, public interest is, in particular, development of the management for specific purposes of immovables used as profit yielding land which contain usable agricultural area or parcels of forest land.

(17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

(2) For the purposes of this Act, the following are deemed equal to the acquisition of immovables:

1) acquisition of a legal share of an immovable if the immovable as a whole has the characteristics provided in subsection 2 (2) or (3) or is located in the area specified in subsection 3 (1) of this Act;

(17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

2) encumbrance of an immovable with a usufruct for longer than ten years or for an unspecified term for the benefit of a natural person who is neither an Estonian citizen nor the citizen of any State which is a Contracting Party to the EEA Agreement (hereinafter Contracting State) or a legal person who is not entered in the appropriate Estonian register, unless the immovable is encumbered with a usufruct for the benefit of the owner of the immovable;

3) encumbrance of an immovable with the right of superficies for the benefit of a natural person who is neither an Estonian citizen nor the citizen of a Contracting State or a legal person who is not entered in the appropriate Estonian register and acquisition of the right of superficies by such person as the result of a transfer, unless the immovable is encumbered with a right of

superficies for the benefit of the owner of the immovable or the right of superficies is acquired by the owner of the immovable.

(3) The provisions of this Act do not apply upon the acquisition of an immovable:

1) on the basis of the Land Reform Act (RT 1991, 34, 426; RT I 2001, 52, 304; 93, 565; 2002, 11, 59; 47, 297 and 298; 99, 579; 100, 586);

2) if the acquirer is the Estonian state or an Estonian local government;

3) if the transferor is the Estonian state;

4) if the acquirer is a legal person in public law or a legal person in private law performing public functions who is included in the list established by a regulation of the Government of the Republic and who acquires the immovable for the performance of its functions;

5) if a co-owner acquires a legal share in the immovable from another co-owner;

5<sup>1</sup>) to the joint property of spouses if the restrictions provided by this Act do not extend to at least one of the spouses;

(17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

6) by the transferor's spouse, descendant or ascendant;

7) by succession.

(3<sup>1</sup>) The provisions of this Act do not apply upon acquisition of apartment ownership and encumbrance of immovables with a right of superficies in apartments.

(17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

(4) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

## § 2. Acquisition of immovables

(1) All persons have the right to acquire immovables unless otherwise provided by law.

(2) The following persons may, without any further conditions, acquire an immovable used as profit yielding land, the land use type categories of which include 10 ha or more of agricultural land:

1) an Estonian citizen;

2) a citizen of a Contracting State who, at the time of concluding the contract of sale, has permanently resided in Estonia for at least the last three years, who is a sole proprietor entered in

an Estonian register and has engaged in the manufacture of agricultural produce within the meaning of § 6 of the Rural Development and Agricultural Market Regulation Act in Estonia during at least the last three financial years;

3) A legal person entered into the Estonian commercial register or register of non-profit associations and foundations who has engaged in the manufacture of agricultural produce within the meaning of § 6 of the Rural Development and Agricultural Market Regulation Act in Estonia during at least the last three financial years. An immovable specified in this subsection may be acquired under the same conditions by a legal person of a Contracting State provided that a branch of the legal person has been entered in the Estonian commercial register.

(3) The following persons may, without any further conditions, acquire an immovable used as profit yielding land, the land use type categories of which include 10 ha or more of forest land:

1) an Estonian citizen;

2) a citizen of a Contracting State who, at the time of concluding the contract of sale, has permanently resided in Estonia for at least the last three years, who is a sole proprietor entered in an Estonian register and has engaged in forest management within the meaning of the Forest Act or in the manufacture of agricultural produce within the meaning of § 6 of the Rural Development and Agricultural Market Regulation Act in Estonia during at least the last three financial years;

3) A legal person entered into the Estonian commercial register or register of non-profit associations and foundations who has engaged in forest management within the meaning of the Forest Act or in the manufacture of agricultural produce within the meaning of § 6 of the Rural Development and Agricultural Market Regulation Act in Estonia during at least the last three financial years. An immovable specified in this subsection may be acquired under the same conditions by a legal person of a Contracting State provided that a branch of the legal person has been entered in the Estonian commercial register.

(4) If a person does not meet the requirements set out in subsection (2) or (3) of this section, the person can acquire an immovable used as profit yielding land, the land use type categories of which include 10 ha or more of agricultural or forest land only with the authorisation of the county governor.

(5) A natural person who is neither an Estonian citizen nor the citizen of any Contracting State or a legal person who is not entered in the appropriate Estonian register may acquire an immovable used for profit yielding land, the land use type categories of which include agricultural or forest land only with the authorisation of the county governor.

(6) Compliance with the requirements set out in subsection (2) and (3) of this section or the existence of the authorisation specified in subsection (4) or (5) of this section shall be verified by a notary. In order to have compliance with the requirements set out in subsection (2) or (3) of this section verified, the following shall be submitted to the notary:

1) a statement from the Tax and Customs Board in proof of the fact that the sole proprietor has engaged in the manufacture of agricultural produce in Estonia during at least the last three financial years. The certificate shall be issued based on Form E of the income tax return of the resident natural person if the sole proprietor has used the additional deduction provided in subsection 32 (4) of the Income Tax Act during the last three financial years;

2) a statement from the Tax and Customs Board in proof of the fact that the legal person has engaged in the manufacture of agricultural produce in Estonia during at least the last three financial years which shall be issued on the basis of the annual reports of the last three financial years;

3) a statement from an environmental authority certifying the fact that the sole proprietor or legal person has engaged in forest management within the meaning of the Forest Act in Estonia at least during the three last financial years;

4) information provided by the Tax and Customs Board on entry of the sole proprietor in the register of taxable persons unless the sole proprietor has been entered in the commercial register.

(17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

### § 3. Restrictions arising from national defence reasons

(1) Any person who is not an Estonian citizen or the citizen of a Contracting State or a legal person of Estonia or a Contracting State is prohibited from acquiring immovables in the following areas or, in the event of changes in the size or name of such areas, within their boundaries as at 31 December 1999:

1) the sea islands, except Saaremaa, Hiiumaa, Muhu and Vormsi;

- 2) in the county of Ida-Virumaa: the cities of Narva, Narva-Jõesuu and Sillamäe and the rural municipalities of Alajõe, Iisaku, Illuka, Toila and Vaivara;
  - 3) in the county of Tartumaa: the rural municipalities of Meeksi and Piirissaare;
  - 4) in the county of Põlvamaa: the rural municipalities of Mikitamäe, Orava, Räpina and Värskä;
  - 5) in the county of Võrumaa: the rural municipalities of Meremäe, Misso and Vastseliina.
- (2) The Government of the Republic may grant authorisation for the acquisition of an immovable in the areas provided for in subsection (1) of this section also to other persons for reasons significant to the state.

#### § 4. Authorisation for acquisition of immovable

(1) A county governor shall decide on the grant of authorisation in the case specified in subsection 2 (4) of this Act within sixty days as of the receipt of a conforming application. The county governor shall immediately forward the conforming application for an opinion to the local government council. The council shall send its decision on supporting the grant of authorisation for acquisition of the immovable or on refusal to give support to the county governor within forty five days after receipt of the application. If the council has not expressed an opinion during such time, the council is deemed to be in agreement with the grant of authorisation.

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(2) The form of the authorisation application shall be established by the Government of the Republic.

(3) In the making of a decision on the grant of authorisation and formulating of an opinion, the applicant's compliance with the requirements set out in subsection 2 (2) or (3) of this Act shall be assessed. The applicant's prerequisites for using the immovable efficiently for its intended purposes shall be taken into consideration as additional assessment criteria, in particular:

(17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

1) the activity plan submitted by the applicant for using the immovable to be acquired for its intended purposes;

- 2) the means at the disposal of the applicant, including financial resources, to be used for the production of agricultural produce or forest management;
- 3) the applicant's experience in the field of economic activity or other professional activity.
- (4) Authorisation shall be granted if the person has resided in Estonia permanently for a period of at least six months or has engaged in the manufacture of agricultural produce or forest management for at least one year and if, in the opinion of the authorising body, the prerequisites provided in subsection (3) of this section are met to a sufficient degree in order to ensure that the immovable will be used efficiently for its intended purposes.

(17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

- (5) A local government council shall not support the issue of authorisation and a county governor shall not issue an authorisation if this is contrary to the public interest of the state or the local government within the meaning of this Act or to the security of the state or the local government. In particular, a local government council shall not support the issue of authorisation and a county governor shall not issue an authorisation if the requirements set out in subsection (4) of this section are not met or the documents submitted by the applicant do not allow the establishment of all the facts needed for assessment.
- (6) If a local government council does not support the issue of authorisation but the county governor wishes to issue the authorisation, the county governor shall submit a request for a decision on the issue of the authorisation to be made by the Minister of Agriculture. The Minister of Agriculture shall decide on the issue of authorisation within one month as of the receipt of a request.

#### § 5. Nullity of transaction which violates restrictions

- (1) Any transaction which is in violation of the restrictions on the acquisition of immovables as provided in this Act is void.
- (2) In the case of a transaction which violates the restrictions, the county governor of the location of the immovable shall, in the name of the state, request correction of the land register entry and, in the case of a dispute, shall have recourse to a court for recognition of the nullity of the transaction.

#### § 6. Repeal of Act

The Restrictions on Transfer of Immovable Property Ownership to Aliens, Foreign States and Legal Persons Act (RT I 1996, 39, 766) is repealed.

#### § 7. Implementation of Act

(1) Registration applications and applications for authorisation submitted prior to entry into force of this Act shall be subject to the requirements hitherto in force and such applications shall be processed on the bases and pursuant to the procedure hitherto in force. If the parties have concluded a notarised preliminary contract or deed of transfer for the transfer of an immovable prior to entry into force of this Act and, pursuant to the Act hitherto in force, the buyer was not prohibited from acquiring the immovable, the requirements hitherto in force shall apply to the acquisition of the immovable, including the application for authorisation and processing thereof. (17.05.05 entered into force 18.06.06 - RT I 2005, 26, 192)

(2) Clauses 1 (2) 2) and 3) of this Act shall not apply to legal persons of Contracting States after the end of the transition period concerning the acquisition of agricultural and forest land to be provided for in the agreement of Estonia's accession to the European Union.

(3) The requirements set out in subsections 2 (2) and (3) of this Act shall apply to citizens or legal persons of Contracting States after the end of the transition period concerning the acquisition of agricultural and forest land to be provided for in the agreement of Estonia's accession to the European Union insofar as such requirements apply to Estonian natural or legal persons. After the end of the transition period, persons of Contracting States shall not be subject to the requirements of residence in Estonia, entry in the Estonian commercial register and the acquisition of experience in the production of agricultural produce or forest management in Estonia.

#### § 8. Entry into force of Act

(1) This Act enters into force on 1 April 2003.

(2) Clause 1 (3) 4) and subsection 4 (2) of this Act enter into force on the day following the date of publication in the *Riigi Teataja*.

<sup>1</sup> RT = *Riigi Teataja* = *State Gazette*

