

# INTERCONTINENTAL TRUST NEWSLETTER

May 2021



Intercontinental Trust Ltd

## Amendments to the Non-Citizens (Property Restriction) Act (the “Act”)

The Non-Citizens (Property Restriction) (Amendment) Act 2021 (the “Amendment Act”) was legislated on 29 th April 2021 and brings in several major changes to the Act as follows:

Changes brought by Amendment Act	Prior to the Amendment Act
<p>The scope of application of the Act has been widened to include Foundations established under the Foundations Act 2012 and having founders, beneficial/ultimate beneficial owners and beneficiaries who are non-citizens.</p> <p>Endowment of immovable property by a non-citizen founder to a foundation or an existing foundation which has a person who is not a citizen as founder or beneficial owner (BO)/ultimate BO or beneficiary and wishing to acquire property in Mauritius requires approval from the Prime Minister’s Office (PMO).</p>	<p>The Act applied only to companies/partnerships/sociétés whose shares or interests are held by non- Citizens and Trusts whose beneficiaries included non-citizens.</p> <p>No approval was required from the PMO for the endowment of immovable property by a non-citizen founder to a foundation or if an existing foundation who has a person who is not a citizen as founder or BO/ultimate BO or beneficiary intended to acquire property in Mauritius.</p>
<p>Non-citizens are now required to seek approval from the PMO for the disposal of:</p> <ul style="list-style-type: none"><li>- immovable property whether freehold or leasehold</li><li>- rights or interest in property held through a trust</li><li>- shares of a company which directly/indirectly holds immovable property</li></ul> <p>Approval will still required in instances where non-citizens are distributing/transferring their immovable properties to citizens of Mauritius.</p>	<p>Approval was only required for the acquisition of immovable properties by non-citizens either directly, through trust arrangements and corporate structures.</p>
<p>Non-citizens are now required to seek approval from the PMO for the burdening of a property with a mortgage or charge.</p>	<p>This was not a requisite.</p>

<p>A Qualified Corporation i.e. a company holding a Category 1 Global Business Licence (GBL) or a company holding a banking licence in so far as it relates to its banking transactions with non-residents and corporations holding a GBL or with an Authorised Company must apply to the Financial Services Commission or the Bank of Mauritius respectively in case it wishes to dispose of a property</p>	<p>Such applications had to be filed only for acquisition of property.</p>
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The Amendment Act clarifies on instances where PMO approval is **not** required for the disposal of immovable property:

For non-citizens:

- in accordance with any other enactment or convention to which Mauritius is a party
- while he is the spouse of a citizen, married under the “régime legal de communauté”
- by inheritance
- by the effect of marriage

For non-citizens and non-residents of Mauritius:

- shares or securities of a company which is listed on the Official List of the Stock Exchange or on any Second Market which may be established under the Stock Exchange Act

We note that **no** such exemption has been granted for the disposal of:

- investments made in a unit trust scheme or collective investment scheme
- properties acquired under the Invest Hotel Scheme, Property Development Scheme or Smart City Scheme, prescribed under the Economic Development Board Act 2017
- an apartment used, or available for use, as residence, in a ground + 2 building and whose purchase was of at least Mur 6 million
- plot of land for the construction of a residence acquired by a company holding a certificate under the Smart City Scheme
- residential property acquired under the Integrated Resort Scheme and Real Estate Scheme

If you have any questions or you require more information on the Non-Citizens (Property Restriction) (Amendment) Act 2021, please get in touch with your usual contact person at ITL or write to us on [info@intercontinentaltrust.com](mailto:info@intercontinentaltrust.com)

For any additional information please contact us.

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