



ACQUISITION OF REAL ESTATE IN POLAND BY FOREIGNERS

Acquisition of real estate by foreigners in Poland is regulated by a special Act¹ and its implementing regulations². According to the Act, acquisition of real estate means acquisition of the ownership right to **real estate**, but also acquisition of the **right of perpetual usufruct** on the basis of any legal event³.

WHAT IS REAL ESTATE IN POLISH LAW?

Real estate is parts of land constituting a separate object of ownership (**land property**, e.g. plot(s) of land with or without buildings), as well as buildings permanently attached to land (**building**, e.g. residential building erected on land owned by the State Treasury) or parts of such buildings, if under special provisions they constitute a separate object of ownership (**residential unit**, e.g. a flat in a block of flats)⁴. **Agricultural real estate** (agricultural land) is real estate that is or can be used to carry out agricultural activity⁵. We can also distinguish **forest property**⁶.

WHEN DO I NEED TO APPLY FOR A PERMIT TO ACQUIRE REAL ESTATE IN POLAND?

If you are a foreigner and you want to buy real estate in Poland, **you have to** apply for a relevant permit. Within the definition of the Act, a “foreigner” is⁷:

- a) natural person who is not a Polish citizen,
- b) legal person (e.g. a capital company: a joint-stock company or a limited liability company) established abroad,
- c) company without legal personality established by the abovementioned persons, having its registered office abroad, established in accordance with foreign legislation,
- d) legal person and a commercial company without legal personality, having its registered office in Poland, controlled directly or indirectly by the abovementioned persons or companies.

1 Act of 24 March 1920 on Acquisition of Real Estate by Foreigners.

2 The Regulation of the Minister of the Interior of 20 June 2012 on detailed information and types of documents to be submitted by foreigners applying for a permit to acquire real estate and the Regulation of the Council of Ministers of 23 November 2004 on the procedure and detailed principles of keeping registers of real estate, shares and stocks acquired or taken up by foreigners.

3 Article 1(4) of the Act of 24 March 1920 on Acquisition of Real Estate by Foreigners.

4 Article 46 § 1 of the Act of 23 April 1964 Civil Code.

5 Article 46 § 1 of the Act of 23 April 1964 Civil Code

6 Article 3 of the Act of 28 September 1991 on Forests

7 Article 1(2) of the Act of 24 March 1920 on Acquisition of Real Estate by Foreigners

WHEN PERMISSION TO BUY PROPERTY IS NOT NEEDED - EXCEPTIONS

- 1) If you are a foreign citizen or entrepreneur from a state from the European Economic Area or Switzerland, a permit for the acquisition of real estate is not required⁸.
- 2) Moreover, as a foreigner **you are exempt** from the obligation to obtain a permit if you are acquiring⁹:
 - a) self-contained residential unit,
 - b) garage or garage share - if you are at the same time buying or owning a property for residential purposes,
 - c) real estate - if you have lived in Poland for at least 5 years since obtaining a permanent residence permit or a EU long-term resident's permit,
 - d) real estate - if you are the spouse of a Polish citizen and you have lived in Poland for at least 2 years since obtaining a permanent residence permit or an EU long-term resident's permit, and the real estate will constitute statutory joint marital property,
 - e) real estate - if on the day of its *acquisition* you are entitled to statutory inheritance under Polish law from the disposer of the *real estate* and the disposer of the *real estate* has been the owner or perpetual usufructuary of the *real estate* for at least 5 years,
 - f) undeveloped real estate for statutory purposes - as a legal person and a commercial company controlled by foreigners, if the total area of the real estate in the whole country does not exceed 0.4 ha in urban areas,
 - g) real estate - as a bank and at the same time mortgage creditor, as part of the procedure of taking over the real estate as a result of an unsuccessful auction in enforcement proceedings,
 - h) you are acquiring or taking up shares in a company owning real estate - as a bank being a legal entity and a commercial company controlled by foreigners, in connection with the bank's enforcement of claims resulting from banking activities.

However, the exemption **does not cover acquisition of real estate located in border areas nor agricultural land of an area exceeding 1 ha**¹⁰.

8 Article 8(2) of the Act of 24 March 1920 (...); No permit required from 1 May 2016.

9 Article 8(1) of the Act of 24 March 1920 (...).

10 Article 8(3) of the Act of 24 March 1920 (...).

WHAT IF I WANT TO PURCHASE REAL ESTATE THAT IS NOT COVERED BY THE EXEMPTIONS?

In such a case you have to apply to the Minister of the Interior and Administration. A permit will be issued if¹¹:

- purchase of the real estate by you will not cause a threat to defence, state security or public order, nor will it be contrary to social policy or public health policy,
- you prove that there are **circumstances confirming your ties with Poland**. Circumstances confirming ties with Poland may include **in particular**: having a Polish nationality or Polish origin; marrying a Polish citizen; having a temporary residence permit (except for a permit for victims of trafficking or due to circumstances requiring a short-term stay of a foreigner in Poland); having a permanent residence permit or an EU long-term resident's permit; membership in the governing body of entrepreneurs being a legal person and a commercial company controlled by foreigners; conducting economic or agricultural activity in Poland in accordance with the provisions of Polish law¹². **There may also be other circumstances! However, the area of real estate purchased in order to satisfy living needs may not exceed 0.5 ha¹³**. In addition, acquisition of agricultural real estate by foreigners needs to take place in compliance with the provisions of the Act on Development of the Agricultural System¹⁴.

WHAT MUST THE APPLICATION CONTAIN (IN THE EVENT THAT AN EXEMPTION DOES NOT APPLY)?

A permit application should include¹⁵:

- a) identification of the applicant and their legal status;
- b) designation of the purchased property;
- c) identification of the seller (disposer);
- d) indication of the legal form of acquisition of real estate;
- e) information about the purpose and possibility of purchasing real estate;
- f) source of financial resources for the purchase of real estate.

11 Article 1a(1) of the Act of 24 March 1920 (...).

12 Article 1a(2) of the Act of 24 March 1920 (...).

13 Article 1a(5) of the Act of 24 March 1920 (...).

14 Act of 11 April 2003 on Development of the Agricultural System

15 Article 1a(3) of the Act of 24 March 1920 (...) and § 2 of the Regulation of the Minister of Internal Affairs of 20 June 2012 (...).

Detailed information on the application and the type of documents you are obliged to submit can be found in the Minister's Regulation¹⁶.

WHAT DOCUMENTS SHOULD BE ATTACHED TO THE APPLICATION?

The application should be accompanied by the following documents¹⁷:

- 1) Documents confirming ties with Poland (e.g. copies of marital status/vital records, documents confirming work and stay in Poland, including decisions on granting residence permits);
- 2) Copy or duplicate of the applicant's identity document or extract from the relevant register or records (for legal persons);
- 3) Documents describing the real estate, issued not earlier than 6 months before the date of submitting the application:
 - a) a copy of the land and mortgage register or a certificate from documents registry,
 - b) an extract from the land register together with an extract from the cadastral map,
 - c) in the event that the current designation of the real estate is not entered in the land and mortgage register - official documents constituting the basis for making changes to the designation of the property,
 - d) extract from the current spatial development plan, or possibly a decision on the location of a public purpose investment project or a decision on development conditions, if issued, or in the absence of a local spatial development plan - a document issued by the competent authority confirming absence of such a plan;

However, if the application concerns premises constituting a separate object of ownership, **you are not obliged** to attach the documents referred to in points b-d to the application. If the property does not have a land and mortgage register, you are however obliged to submit a copy of the land and mortgage register and an extract from the land register concerning the developed real estate featuring the building in which the purchased premises are located¹⁸.

¹⁶ Regulation of the Minister of Internal Affairs of 20 June 2012 (...).

¹⁷ Article 1a(4) of the Act of 24 March 1920 (...) and § 3 of the Regulation of the Minister of Internal Affairs of 20 June 2012 (...).

¹⁸ § 3 cl. 2 of the Regulation of the Minister of the Interior of 20 June 2012 (...).

- 4) statement of the seller (disposer) expressing the will to dispose of the real estate for the benefit of the foreigner, and in the case of acquisition of real estate as a result of a merger (division) of companies - the agreed plan of merger (division) with appendices - draft resolutions on the merger (division) and draft agreement or statute of the acquiring company - separated or newly established;
- 5) in the case of legal persons¹⁹, also documents issued not earlier than 3 months prior to the submission of the application indicating possession of financial resources for purchase of the real estate and a possibility of financing commercial activity, namely:
 - certificates from the bank where the buyer's or the shareholders' basic current account is held, specifying the buyer's creditworthiness and payment ability;
 - a certificate from the appropriate tax office stating that the purchaser is not in arrears with obligatory payments;
 - a certificate from the relevant branch of the Social Insurance Institution stating that the purchaser is not in arrears with contributions to the Social Insurance Fund.

The Ministry may also ask you to provide other additional documents necessary to process the case.

You should submit original documents or certified copies.

FEE

The original stamp duty receipt should be submitted together with the application for a permit to acquire real estate²⁰. Stamp duty should be paid to the account of the City Hall of the capital city of Warsaw Mokotów District (18 1030 1508 0000 0005 5002 3113).

- permit to acquire real estate, shares and stocks by a foreigner - PLN 1570
- promise - PLN 98
- power of attorney - PLN 17

PERMIT ISSUE DATE

Administrative proceedings concerning the issue of a permit by the Minister of the Interior and Administration for acquisition of real estate by foreigners are conducted in accordance with the deadlines provided for in the Code of Administrative Procedure, i.e. approximately within two months²¹. Please note, however, that these are recommended deadlines and that in practice the procedure may take longer.

¹⁹ § 5 of the Regulation of the Minister of the Interior of 20 June 2012 (...) in conjunction with article 1(2) items (2) to (4) the Act of 24 March 1920 (...).

²⁰ Article 6(1) of the Stamp duty Act of 16 November 2006

²¹ Article 35 § 3 of the Act of 14 June 1960 Code of Administrative Procedure

WHAT IS A PROMISE?

If you intend to purchase real property in Poland, you may also apply for a promise to issue a permit, called “promesa”. A promise is valid for one year from the date of issue, and during its validity term a permit may not be refused unless the facts relevant to the outcome of the case change. To get a promise, you must submit the same documents as for the target application.

WHERE CAN I FIND MORE INFORMATION?

More information is available from the Ministry of the Interior and Administration, which is responsible for issuing permits and promises:

5 Stefana Batorego St., 02-591 Warsaw,

<https://www.gov.pl/web/mswia>

e-mail: kontakt@mswia.gov.pl

tel.: 222 500 112 fax: 22 601 39 88

ePUAP: /MSWIA/domyslna and /MSWIA/SkrytkaESP

or directly at:

<https://www.gov.pl/web/mswia/uzyskaj-zezwozenie-na-nabycie-nieruchomosci-akcji-udzialow-przez-cudzoziemcow>



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Since 2007, we have been supporting
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