

ANTIGUA AND BARBUDA



NON-CITIZENS LAND HOLDING REGULATIONS (AMENDMENT) ACT, 2018

No. 9 of 2018

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CLAUSES

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[L.S.]



I Assent,

Clare Roberts,
Governor-General.

25th June, 2018.

ANTIGUA AND BARBUDA

NON-CITIZENS LAND HOLDING REGULATIONS (AMENDMENT) ACT, 2018

NO. 9 OF 2018

AN ACT to amend the Non-Citizens Land Holding Regulations Act, Cap. 293 to cure certain defects and make provision to bring the Act into conformity with the development program of the Government.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Non-Citizens Land Holding Regulations (Amendment) Act, 2018.

2. Interpretation

In this Act—

“principal Act” means the Non-Citizens Land Holding Regulations Act, Cap. 293.

3. Amendment of section 2- Interpretation

Section 2 of the principal Act is amended by the insertion after paragraph (b) of the definition of “non-citizen” of the following—

“(c) any company incorporated in Antigua and Barbuda under the International Business Corporation Act Cap. 222”

4. Amendment of section 3- Forfeiture of land and mortgages held by unlicensed non-citizens

Section 3 of the principal Act is amended by the repeal of paragraph (a) of the proviso thereof.

5. Amendment of section 4- Licences for non-citizens to hold land or mortgages

Section 4 of the principal Act is amended by the repeal of subsection (1) thereof and the substitution therefor of the following—

“(1) The Cabinet may, if it thinks fit, and upon application in the prescribed form, grant a licence to a non-citizen to hold land in Antigua and Barbuda as owner, tenant or mortgagee for any estate or interest, either subject to any conditions or not:

Provided that the licence shall be operative only as to the land described and as to the estate or interest specified in the licence, and shall be of no force or effect until registered in the Record Office of Antigua and Barbuda.”

6. Amendment of section 6- Companies under the control of non-citizens

Section 6 of the principal Act is amended by the repeal of paragraph (a) thereof and the substitution of the following—

“(a) if any of the directors is a non-citizen;”.

7. Amendment of section 7-Power of a company to restrict holding by non-citizens of its shares and debenture

The chapeau to section 7 of the principal Act is repealed and replaced by the following-

“Notwithstanding anything contained in any law relating to companies, or in the memorandum or articles of association of the company, or in any debenture, or in any instrument for securing any issue of debentures, a company incorporated in Antigua and Barbuda holding or intending to acquire land in Antigua and Barbuda may—”

8. Amendment of section 8- Licences for non-citizens to hold directorships, shares or debentures

Section 8 of the principal Act is amended as follows-

(a) by the repeal of subsection (1) thereof and the substitution of the following-

“(1) The Cabinet may, if it thinks fit, and upon application in the prescribed form, grant a licence to a non-citizen, for all or any of the following matters, namely-

(a) to be a director of a company;

(b) to vote at meetings of a company;

- (c) to hold shares or debentures of a company;
- (d) to be a member of a company having no share capital:

Provided that no licence shall be granted to a non-citizen under this section, unless the company in respect of which the licence relates is a company holding land under a licence granted under section 4.

(2) A licence granted under this section shall be operative only as to the company named, and as to the land described, and as to the number of votes, shares or debentures, specified in the licence.”

- (b) by the renumbering of subsection (2) as subsection (3),

9. Amendment of section 18- Stamp Duty

Section 18 of the principal Act is amended as follows—

- (a) by the repeal of paragraphs (a), (b) and (c) of subsection (1) and the substitution of the following—

“(a) where the licence is granted to hold land in fee simple and the consideration on sale or disposal to the licensee is money or money’s worth, the duty shall be at the rate of five per centum of the consideration or the market value of the land at the time of the sale or disposal, whichever is greater;

(b) where the licence is granted on transfer of shares, the duty shall be at the rate of five percent of the market value of the percentage of interest in land represented by the number of shares held by the licensee;

(c) where the licence is granted to enable the licensee to hold a mortgage or, debenture or a charge or debentures or any form of security on land the duty payable is two thousand dollars;”

- (b) by the insertion of the following paragraph after paragraph (c) as follows—

“(d) for any other licences, the duty shall be four thousand dollars.”

10. Amendment of section 23- Power of the Cabinet

Section 23 of the principal Act is repealed and replaced by the following-

“(1) The Cabinet may, if it thinks fit, upon application in the prescribed form, by order-

- (a) defer the payment of the stamp duties payable under section 18 to a date, not exceeding three years, commencing on the date specified in the licence for completion of the proposed development;

- (b) exempt any non-citizen or class of non-citizens from any of the provisions of this Act, subject to such conditions as may be specified in the Order:

Provided that paragraph (b) shall not apply to the payment of Stamp Duty imposed under section 18 and the Land value Appreciation tax under section 19, except by an order made by the Minister and approved by affirmative resolution by the House of Representative.

(2) Where the licensee fails to pay the stamp duty on the date on which the period of deferment referred to in subsection (1) (a) expires, a penalty of two percent of the stamp duty owed shall be paid to the Commissioner of Inland Revenue.

11. Amendment of the principal Act

The principal Act is amended by inserting the following new section after section 24—

“25. Regulations

The Minister may make regulations for the purpose of carrying out this Act into effect, and in particular prescribe application forms for licences to hold interest in land, shares or to be director of a corporation holding land.”

Passed by the House of Representatives
on the 31st day of May, 2018.

Passed by the Senate on the
day of 2nd June, 2018.

Londel Benjamin
Deputy Speaker

Osbert Frederick
Vice President

Alison Peters
Clerk to the House of Representatives

Alison Peters
Clerk to the Senate