

Mobility: Immigration alert

March 2023

Canada

Amendments to ease the Prohibition on the Purchase of Residential Property by Non-Canadians Act

Executive summary

On 27 March 2023, Housing and Diversity and Inclusion Minister Ahmed Hussen announced amendments to the accompanying Regulations of the Prohibition on the Purchase of Residential Property by Non-Canadians Act.

Background

On 23 June 2022, Parliament passed the Prohibition on the Purchase of Residential Property by Non-Canadians Act ('the Act'). This Act and its Regulations came into force on 1 January 2023 and is expected to be in place for two years. The Act implements a two-year ban on the purchase of residential property, defined as buildings with three dwelling units or less within a 2021 Census metropolitan or census agglomeration area, by anyone who is not a Canadian citizen, permanent resident of Canada, or a corporation not listed on a stock exchange in Canada and controlled by non-Canadians.

The Act was passed by the Government of Canada with the intent to make housing more affordable for Canadians by preventing foreign investors from purchasing residential property in Canada when they have no intention for settlement in Canada. The Regulations of the Act were developed to set out specific exceptions, definitions, and clarifications necessary to implement the prohibition.

Key developments

The Minister has announced amendments to the Regulations of the Act to expand some of the existing exceptions, allowing non-Canadians to purchase residential property in certain circumstances. These amendments came into effect on 27 March 2023, and are as follows:

- More work permit holders can now purchase a home to live in while working in Canada. Those who hold a work permit or are authorized to work in Canada under the Immigration and Refugee Protection Regulations and have 183 days or more of validity remaining on their work permit or work authorization at time of purchase, can now purchase residential property. The current provisions that require evidence of prior Canadian tax filings and previous Canadian work experience are being repealed.
- The existing provision regarding vacant land is being repealed. Vacant land zoned for residential and mixed use can now be purchased by non-Canadians and used for any purpose by the purchaser, including residential development. Section 3(2) of the Regulations are being repealed.
- Non-Canadians can now purchase residential property for the purpose of development, and this exception is now extended to publicly traded entities formed under the laws of Canada or a province and controlled by a non-Canadian.
- The control threshold has increased from 3% to 10% for privately held corporations or entities formed under the laws of Canada or a province, and controlled by a non-Canadian, to align with the definition of 'specified Canadian



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Corporation' in the Underused Housing Tax Act. All roles under National Occupation Classification 2021 category TEER 0-5 will qualify under the new pathway

What this means

These amendments demonstrate that the government of Canada has recognized the importance of allowing temporary workers in Canada the freedom to enter and participate in the Canadian housing market. Additionally, the unintended consequences this Act has had on investing in developing new housing is hoped to be reduced as a result of these amendments. The Government of Canada acknowledges the need to make housing affordable for Canadians, while also acknowledging the benefit of home ownership for newcomers and for businesses to create jobs and build homes to add to the housing supply in Canadian cities.

Key steps

Should you have any questions with respect to these extended measures, please do not hesitate to contact your EY Law LLP professional.

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