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## **Federal Act on the Acquisition of Immovable Property in Switzerland by Foreign Non-Residents (ANRA)**

of 16 December 1983 (Status as of 1 March 2021)

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*The Federal Assembly of the Swiss Confederation,*

based on Articles 54 paragraph 1, 122 paragraph 1 and 123 paragraph 1 of the Federal Constitution<sup>1,2</sup>

and having considered the Federal Council Dispatch dated 16 September 1981<sup>3</sup>,  
*decrees:*

### **Chapter 1 Purpose and Principles**

#### **Art. 1 Purpose**

This Act limits the acquisition of immovable property by foreign non-residents, in order to prevent the excessive ownership of Swiss territory by foreign nationals.

#### **Art. 2 Authorisation**

<sup>1</sup> Foreign non-residents require authorisation from the competent cantonal authority for the acquisition of immovable property.

<sup>2</sup> No authorisation is required for acquisition if:

- a. the immovable property serves as the permanent establishment for a trading, manufacturing or other form of commercial operation, for a skilled crafts business or for the practice of a liberal profession;

AS 1984 1148

<sup>1</sup> SR 101

<sup>2</sup> Amended by Annex No 1 of the FD of 25 Sept. 2020 on the Adoption and Implementation of the Agreement between Switzerland and the UK on Citizens' Rights following the Withdrawal of the UK from the EU and the Free Movement of Persons Agreement, in force since 1 March 2021 (AS 2021 85; BBl 2020 1029).

<sup>3</sup> BBl 1981 III 585

- b. the immovable property serves the acquirer as a natural person as his or her main home at his or her lawful and effective place of residence; or
- c. an exception under Article 7 applies.<sup>4</sup>

<sup>3</sup> When acquiring immovable property in accordance with paragraph 2 letter a, homes or areas reserved for homes may also be acquired if required to meet residential quota regulations.<sup>5</sup>

### **Art. 3** Federal law and cantonal law

<sup>1</sup> Authorisation is granted only on the grounds set out in this Act.

<sup>2</sup> The cantons may specify additional grounds for authorisation and further restrictions in order to safeguard their various interests provided this Act authorises them to do so.

## **Chapter 2 Authorisation**

### **Art. 4** Acquisition of immovable property

<sup>1</sup> Acquisition of immovable property means:

- a. the acquisition of immovable property, of a building right, of a right of residence or the usufruct relating to a property;
- b.<sup>6</sup> participation in a business capable of owning assets without legal personality the actual object of which is to acquire immovable property;
- c.<sup>7</sup> the acquisition of the ownership or usufruct of a share in a real estate fund, the shares of which are not regularly traded on the market, or of any similar asset;
- c<sup>bis</sup>.<sup>8</sup> the acquisition of the ownership or usufruct of a share in a real estate SICAV the shares of which are not regularly traded on the market, or of any similar asset;
- d.<sup>9</sup> ...

<sup>4</sup> Inserted by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BB1 1997 II 1221).

<sup>5</sup> Inserted by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BB1 1997 II 1221).

<sup>6</sup> Amended by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BB1 1997 II 1221).

<sup>7</sup> Amended by Annex No I of the FA of 28 Sept. 2012, in force since 1 March 2013 (AS 2013 585; BB1 2012 3639).

<sup>8</sup> Inserted by Annex No I of the FA of 28 Sept. 2012, in force since 1 March 2013 (AS 2013 585; BB1 2012 3639).

<sup>9</sup> Repealed by No I of the FA of 30 April 1997, with effect from 1 Oct. 1997 (AS 1997 2086; BB1 1997 II 1221).

- e.<sup>10</sup> the acquisition of the ownership or usufruct of a share of an entity, the actual object of which is to acquire immovable property, provided the shares in this entity are not listed on a stock market in Switzerland;
  - f.<sup>11</sup> the creation and exercise of a right of purchase, pre-emption or repurchase over immovable property or a share within the meaning of letters b, c and e;
  - g. the acquisition of other rights that place the acquirer in a similar position to the owner of immovable property.
- 2 Where a legal entity or a business capable of owning assets without legal personality moves registered office abroad, whether in fact or merely in accordance with its articles, and retains rights to a property that may not be acquired without authorisation under Article 2 paragraph 2 letter a, this is also deemed to be an acquisition of immovable property.<sup>12</sup>

#### **Art. 5** Foreign non-residents

<sup>1</sup> «Foreign non-residents» means:

- a.<sup>13</sup> the following persons, unless they are legally and *de facto* resident in Switzerland:
  - 1. citizens of a member state of the European Union or the European Free Trade Association,
  - 2. citizens of the United Kingdom of Great Britain and Northern Ireland who are covered by Article 22 number 2 of the Agreement of 25 February 2019<sup>14</sup> between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Citizens' Rights following the Withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement;
- a<sup>bis</sup>.<sup>15</sup> a citizen of another foreign state who does not have the right to reside permanently in Switzerland;
- b. a legal entity or business with no legal personality that is capable of owning assets whose registered office is in fact or in accordance with its articles located abroad;

<sup>10</sup> Amended by No I of the FA of 8 Oct. 2004, in force since 1 April 2005 (AS 2005 1337; BBl 2003 4357).

<sup>11</sup> Amended by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>12</sup> Amended by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>13</sup> Amended by Annex No 1 of the FD of 25 Sept. 2020 on the Adoption and Implementation of the Agreement between Switzerland and the UK on Citizens' Rights following the Withdrawal of the UK from the EU and the Free Movement of Persons Agreement, in force since 1 March 2021 (AS 2021 85; BBl 2020 1029).

<sup>14</sup> SR 0.142.113.672

<sup>15</sup> Inserted by No I 2 of the Federal Act of 8 Oct. 1999 on the Agreement between the Swiss Confederation of the one part and the EU and its member states of the other on the free movement of persons, in force since 1 June 2002 (AS 2002 701; BBl 1999 6128).

- c. a legal entity or business with no legal personality that is capable of owning assets whose registered office is in fact or located in Switzerland in which foreign non-residents hold a controlling interest;
- d.<sup>16</sup> a natural person, legal entity or business with no legal personality that is capable of owning assets that is not a foreign non-resident under letters a, a<sup>bis</sup> and c if acquiring a property for the account of foreign non-residents.

2 ...<sup>17</sup>

#### **Art. 6** Controlling interest

<sup>1</sup> A foreign non-resident holds a controlling interest if he or she as a result his or her financial participation, voting rights or for other reasons has a decisive influence over the administration or operational management of a business, whether alone or jointly with other foreign non-residents.

<sup>2</sup> The control of a legal entity by foreign non-residents is presumed if they:

- a.<sup>18</sup> own more than a third of the share capital, capital contributions or cooperative capital;
- b. hold more than a third of the votes in the general or members general meeting;
- c. make up the majority of the foundation board or of the beneficiaries of a private foundation;
- d. provide the legal entity with repayable financial resources that represent more than the half of the difference between the assets of the entity and its debts due to persons not requiring authorisation.

<sup>3</sup> The control of a general or limited partnership by foreign non-residents is presumed if one or more of them:

- a. are partners with unlimited liability;
- b. provide the company as limited partners with financial resources exceeding one third of the equity capital of the partnership;
- c. provide the company or partners with unlimited liability with repayable financial resources that represent more than the half of the difference between the assets of the partnership and its debts due to persons not-requiring authorisation.

<sup>16</sup> Amended by No I 2 of the Federal Act of 8 Oct. 1999 on the Agreement between the Swiss Confederation of the one part and the EU and its member states of the other on the free movement of persons, in force since 1 June 2002 (AS 2002 701; BBl 1999 6128).

<sup>17</sup> Repealed by No I of the FA of 30 April 1997, with effect from 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>18</sup> Amended by No I of the FA of 8 Oct. 2004, in force since 1 April 2005 (AS 2005 1337; BBl 2003 4357).

<sup>4</sup> The control of a real estate fund by foreign non-residents is presumed if its administration within the meaning of this Act is carried out by a foreign non-resident and the fund manager is a foreign non-resident.<sup>19</sup>

<sup>5</sup> The control of a real estate SICAV by foreign non-residents is presumed if its administration within the meaning of this Act is carried out by a foreign non-resident and foreign non-residents:

- a. hold more than one third of the votes for the entrepreneurs' share capital;
- b. make up the majority of the board;
- c. provide repayable financial resources that represent more than the half of the difference between the assets of investor share capital of the real estate SICAV and their debts due to persons not requiring authorisation.<sup>20</sup>

**Art. 7** Other exemptions from authorisation<sup>21</sup>

The following persons do not require authorisation:

- a. statutory heirs under the Swiss law of succession;
- b.<sup>22</sup> the transferor's ascendants or descendants in direct line and his or her spouse or registered partner;
- c.<sup>23</sup> an acquirer who is already a co-owner or joint owner of the property;
- d. condominium owners in relation to the exchange of their storeys in the same property;
- e. an acquirer who receives the property as compensation in a case of expropriation or land consolidation under federal or cantonal law;
- f. an acquirer who receives a property as a replacement for another that he or she has transferred to a public corporation or institution;
- g. an acquirer who receives a small area due to a boundary correction or as a result of an increase in his or her share of condominium;
- h.<sup>24</sup> an acquirer whose acquisition is in the Confederation's national political interest; the area may not be larger than required for the purpose of the property;

<sup>19</sup> Inserted by Annex No I of the FA of 28 Sept. 2012, in force since 1 March 2013 (AS 2013 585; BBl 2012 3639).

<sup>20</sup> Inserted by Annex No I of the FA of 28 Sept. 2012, in force since 1 March 2013 (AS 2013 585; BBl 2012 3639).

<sup>21</sup> Amended by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>22</sup> Amended by Annex No 10 of the Same Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (AS 2005 5685; BBl 2003 1288).

<sup>23</sup> Amended by No I of the FA of 8 Oct. 2004, in force since 1 April 2005 (AS 2005 1337; BBl 2003 4357).

<sup>24</sup> Amended by Annex No II 3 of the Host State Act of 22 June 2007, in force since 1 Jan. 2008 (AS 2007 6637; BBl 2006 8017).

- i.<sup>25</sup> natural persons who acquire a home as a result of the liquidation of a legal entity established before 1 February 1974 whose actual object is the acquisition of immovable property, provided they have acquired shares in the legal entity of equivalent value to the property in accordance with the regulations applicable at the time;
- j.<sup>26</sup> the following persons, provided they are cross-border commuters and acquire a second home in the region of their place of work:
  1. citizens of member states of the European Union or the European Free Trade Association,
  2. citizens of the United Kingdom of Great Britain and Northern Ireland, who are covered by Article 22 number 3 of the Agreement of 25 February 2019<sup>27</sup> between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Citizens' Rights following the Withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement.

**Art. 7a<sup>28</sup>** Institutional beneficiaries enjoying preferential rights, immunities and facilities

The acquisition of immovable property for official purposes by institutional beneficiaries enjoying privileges, immunities and facilities under Article 2 paragraph 1 of the Host State Act of 22 June 2007<sup>29</sup> is governed by exclusively by Chapter 3 of the Host State Act.

### Chapter 3 Grounds for Authorisation and Refusal

**Art. 8** General grounds for authorisation

<sup>1</sup> An acquisition shall be authorised if the immovable property is intended to serve:

- a.<sup>30</sup> ...
- b. as an investment of capital arising from the business operations of insurance institutions under foreign ownership or control and licensed for commercial

<sup>25</sup> Inserted by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>26</sup> Inserted by No I 2 of the Federal Act of 8 Oct. 1999 on the Agreement between the Swiss Confederation of the one part and the EU and its member states of the other on the free movement of persons, in force since 1 June 2002 (AS 2002 701; BBl 1999 6128). Amended by Annex No 1 of the FD of 25 Sept. 2020 on the Adoption and Implementation of the Agreement between Switzerland and the UK on Citizens' Rights following the Withdrawal of the UK from the EU and the Free Movement of Persons Agreement, in force since 1 March 2021 (AS 2021 85; BBl 2020 1029).

<sup>27</sup> SR 0.142.113.672

<sup>28</sup> Inserted by Annex No II 3 of the Host State Act of 22 June 2007, in force since 1 Jan. 2008 (AS 2007 6637; BBl 2006 8017).

<sup>29</sup> SR 192.12

<sup>30</sup> Repealed by No I of the FA of 30 April 1997, with effect from 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

operations in Switzerland, provided general recognised investment principles are observed and the value of all the immovable property held by the acquirer does not exceed the provisions for Swiss business activities regarded by the insurance supervisory authority as technically required;

- c. the occupational pensions of domestic establishments or exclusively charitable purposes, provided the acquirer is exempt from direct federal taxation on the immovable property;
- d.<sup>31</sup> to cover charge-secured debts of banks and insurance institutions under foreign ownership or control and licensed for commercial operations in Switzerland, in forced sales and liquidation settlements.

<sup>2</sup> An heir who requires authorisation but has no grounds for authorisation shall be authorised to make the acquisition on condition that he or she disposes of the immovable property again within two years. If the heir demonstrates close ties to the property that are worthy of protection, authorisation may be granted without this condition.<sup>32</sup>

<sup>3</sup> A natural person who acquires a main, second or holiday home or an accommodation unit in an aparthotel without authorisation to do so due to the absence of cantonal provisions or a local freeze on authorisations shall be granted authorisation if to do otherwise would result in hardship for the transferor. Hardship is constituted by a subsequent unforeseeable state of need affecting the transferor, which he or she can only avoid by selling the immovable property to a person resident abroad. ...<sup>33</sup>

#### **Art. 9** Cantonal grounds for authorisation<sup>34</sup>

<sup>1</sup> The cantons may by law stipulate that an acquisition be authorised if the immovable property is to be used:

- a. for the construction of social housing under cantonal law and without federal financial aid in locations where there is a shortage of housing, or if newly constructed residential buildings are located on the immovable property;
- b.<sup>35</sup> ...
- c. as the second home for a natural person in a location with which that person has an exceptionally close relationship worthy of protection, provided the relationship is long-term.

<sup>2</sup> The cantons may also stipulate by law that a natural person may be authorised to acquire a holiday home or an accommodation unit in an aparthotel as part of the cantonal quota.

<sup>31</sup> Amended by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>32</sup> Sentence inserted by No I of the FA of 8 Oct. 2004, in force since 1 April 2005 (AS 2005 1337; BBl 2003 4357).

<sup>33</sup> Sentence deleted by No I of the FA of 22 March 2002, with effect from 1 Sept. 1997 (AS 2002 2467; BBl 2002 1052 2748).

<sup>34</sup> Amended by No I of the FA of 22 March 2002, in force since 1 Sept. 2002 (AS 2002 2467; BBl 2002 1052 2748).

<sup>35</sup> Repealed by No I of the FA of 30 April 1997, with effect from 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>3</sup> The cantons shall determine the locations where holiday homes or accommodation units in aparthotels should be acquired by foreign non-residents in order to promote tourism.<sup>36</sup>

<sup>4</sup> An authorisation does not count towards the quota if:

- a. the seller has already been authorised to acquire the holiday home or accommodation unit in an aparthotel;
- b. it is granted under Article 8 paragraph 3;
- c. it is granted for the acquisition of a share in co-ownership of a holiday home or accommodation unit in an aparthotel, provided the acquisition of another share in co-ownership in the same holiday home or accommodation unit in an aparthotel has already been counted towards the quota.<sup>37</sup>

#### **Art. 10** Aparthotels

An aparthotel is a new hotel or a hotel requiring renovation that is in the condominium of the hotel proprietor, foreign non-residents and, if applicable, third parties, provided it meets the following requirements:

- a. the hotel proprietor owns at least a 51 per cent share of the value of the property in the form of special fittings and installations for the hotel business and accommodation units;
- b. at least 65 per cent of the value of the accommodation units is permanently managed as a hotel operation, including all the accommodation units owned by the hotel proprietor;
- c. the aparthotel offers an appropriate range of services and structural and operational facilities and, based on a expert opinion of the Swiss Association for Hotel Credit, is expected to be profitable.

#### **Art. 11**<sup>38</sup> Authorisation quotas

<sup>1</sup> The Federal Council determines the annual cantonal authorisation quotas for the acquisition of holiday homes and accommodation units in aparthotels based on a maximum number for the whole of Switzerland; in doing so it shall take account of the country's political and economic interests.

<sup>2</sup> The maximum number under paragraph 1 may not exceed 1500 quota units.

<sup>3</sup> The Federal Council shall calculate the cantonal quotas based on the importance of tourism to the cantons, the tourist development plans and the percentage of immovable property in foreign ownership on their territory.

<sup>4</sup> The cantons regulate the allocation of authorisations from their quota.

<sup>36</sup> Amended by No I of the FA of 8 Oct. 2004, in force since 1 April 2005 (AS 2005 1337; BB1 2003 4357).

<sup>37</sup> Inserted by No I of the FA of 22 March 2002, in force since 1 Sept. 2002 (AS 2002 2467; BB1 2002 1052 2748).

<sup>38</sup> Amended by No I of the FA of 22 March 2002, in force since 1 Sept. 2002 (AS 2002 2467; BB1 2002 1052 2748).

**Art. 12** Mandatory grounds for refusal

Authorisation shall be refused in every case where:

- a. the immovable property constitutes an unlawful investment of capital under this Act;
- b. the area is larger than its purpose requires;
- c. the acquirer has attempted to circumvent this Act;
- d.<sup>39</sup> the acquirer of a second home as defined in Article 9 paragraph 1 letter c, of a holiday home or of an accommodation unit in an aparthotel, his or her spouse or registered partner or his or her children under 18 years of age already own such a home in Switzerland;
- e.<sup>40</sup> ...
- f. the acquisition is contrary to national political interests.

**Art. 13** Stricter cantonal restrictions

<sup>1</sup> The cantons may by law impose stricter limits on the acquisition of holiday homes and accommodation units in aparthotels in particular by:

- a. introducing a freeze on authorisations;
- b. permitting the acquisition of holiday homes only as part of a condominium or of another collective unit of several holiday homes;
- c. permitting the acquisition of only a certain maximum percentage of living space of all holiday homes and accommodation units in aparthotels when counted together;
- d. introducing a right of pre-emption at market value for persons who do not require authorisation;
- e. limiting acquisition to a building right, right of residence or usufruct.

<sup>2</sup> The communes may introduce these limitations on their own initiative. The cantons regulate the procedure.

**Art. 14** Conditions and requirements

<sup>1</sup> Authorisation is granted subject to conditions and requirements that guarantee that the immovable property will be used for the purpose claimed by the acquirer.

<sup>2</sup> The Federal Council regulates the minimum conditions and requirements unless this Act regulates them, and the forfeiture of authorisations.

<sup>3</sup> Requirements must be noted in the land register.

<sup>4</sup> They may be revoked for good cause at the acquirer's request.

<sup>39</sup> Amended by Annex No 10 of the Same Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (AS 2005 5685; BBl 2003 1288).

<sup>40</sup> Repealed by No I of the FA of 30 April 1997, with effect from 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

<sup>5</sup> If exemption from authorisation is granted because foreign non-residents do not hold a controlling interest, this decision must be made conditional on the acquirer applying for a new decision to be made before any change in the circumstances that could justify an authorisation requirement.

## Chapter 4 Authorities and Procedure

### Art. 15 Cantonal authorities

<sup>1</sup> Each canton shall appoint:

- a. one or more licensing authorities that decide on the authorisation requirement, authorisation and the revocation of an authorisation or condition;
- b. an authority with right of appeal that may also request that authorisation be withdrawn or criminal proceedings brought and an unlawful position be rectified;
- c. an appellate authority.

<sup>2</sup> The authority at the location of the immovable property has jurisdiction; in cases involving the acquisition of shares in legal entities or participation in a business capable of owning assets without legal personality, the authority in whose official area the largest part of the immovable property based on value is located has jurisdiction.

<sup>3</sup> The Federal Department of Justice and Police decides on conflicts of jurisdiction between the authorities of different cantons.

### Art. 16 Federal authorities

<sup>1</sup> After consulting the cantonal government, the Federal Council shall decide whether:

- a. it is in the political interests of the Confederation that the acquirer should not require authorisation for an acquisition;
- b. the acquisition is contrary to policy interests; if this is the case, it shall refuse authorisation.

<sup>2</sup> ...<sup>41</sup>

<sup>3</sup> ...<sup>42</sup>

<sup>4</sup> In other cases, the Federal Department of Justice and Police and, where this Act so provides, the Federal Office of Justice are responsible.

<sup>41</sup> Repealed by Annex No II 3 of the Host State Act of 22 June 2007, with effect from 1 Jan. 2008 (AS 2007 6637; BBl 2006 8017).

<sup>42</sup> Repealed by No I of the FA of 30 April 1997, with effect from 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

**Art. 17** Authorisation procedure

<sup>1</sup> Acquirers whose obligation to obtain authorisation cannot be immediately excluded, must at the latest following conclusion of the legal transaction or, in the absence of such, following acquisition apply for authorisation or a declaration that no authorisation is required.

<sup>2</sup> The authorisation authority shall give notice of its ruling, stating the grounds therefor and providing instructions of rights of appeal, to the parties, to the commune in which the immovable property is located, and together with the complete case files, the cantonal authority with right of appeal.

<sup>3</sup> If the cantonal authority with right of appeal forgoes or withdraws the appeal, it shall give notice of the ruling with the complete case files free of charge to the Federal Office of Justice.

**Art. 18** Land register and commercial register

<sup>1</sup> Unless the land registrar can exclude authorisation immediately, he or she shall suspend the procedure and allow the acquirer 30 days within which to obtain authorisation or the declaration that no authorisation is required; he shall reject the application if the acquirer fails to meet this deadline or authorisation is refused.

<sup>2</sup> The commercial registrar shall proceed in the same way as the land registrar; he or she shall however in every case refer a legal entity or business without legal personality but capable of owning assets which moves its registered office from Switzerland to another country to the authorisation authority before its deletion from the register.

<sup>3</sup> A ruling by the land registrar or the commercial registrar rejecting the application is subject to an appeal to cantonal court of appeal that is competent under this Act; this appeal takes the place of an appeal to the supervisory authority for the land register or commercial register.

<sup>4</sup> ...<sup>43</sup>

**Art. 19** Compulsory auction

<sup>1</sup> A person who purchases a property in a compulsory auction must confirm in writing to the auction authority after the bid is accepted whether he or she is a foreign non-resident, or whether he or she is acting on behalf of a foreign non-resident; notice of this requirement and of the requirement that foreign non-residents obtain authorisation for the acquisition of immovable property must be given to the purchaser in the auction conditions.

<sup>2</sup> Where it is certain that authorisation is required and no legally binding authorisation has yet been granted, or if the requirement of authorisation cannot be excluded without further enquiries, the auction authority shall, subject to notice to the land registrar, allow the acquirer ten days to:

<sup>43</sup> Repealed by No I of the FA of 30 April 1997, with effect from 1 Oct. 1997 (AS 1997 2086; BBl 1997 II 1221).

- a. obtain authorisation or confirmation that the he or she does not require authorisation;
- b. obtain a guarantee that the purchase price will be paid; while the guarantee is effective, interest is due on the price at 5 per cent per annum;
- c. arrange a guarantee for the costs of a further auction.

<sup>3</sup> If the acquirer fails to meet the deadline or if the authorisation is refused in a legally binding decision, the auction authority shall rescind its acceptance of the bid, giving notice thereof to the land registrar, and order a new auction.

<sup>4</sup> The decision by the auction authority to rescind acceptance is subject to a right of appeal to the competent cantonal appellate authority under this Act; this appeal takes the place of an appeal to the supervisory authority for debt enforcement and bankruptcy.

<sup>5</sup> If a lower bid must be accepted in the subsequent auction, the successful bidder in the first auction is liable for the difference in bids and any additional losses.

#### **Art. 20** Appeal to the cantonal appellate authority

<sup>1</sup> Rulings issued by the authorisation authority, the land registrar, the commercial registrar and the auction authority are subject to appeals to the cantonal appellate authority.

<sup>2</sup> The following persons have a right of appeal:

- a. the acquirer, the seller and other persons who have a legitimate interest in the ruling being reversed or amended;
- b. the cantonal authority with right of appeal or, if it foregoes or withdraws an appeal, the Federal Office of Justice;
- c. the commune in which the immovable property is located against authorisation, against a declaration that the acquirer does not require authorisation, and against the revocation of a condition.

<sup>3</sup> An appeal must be filed within 30 days of notice of the ruling being given to the parties or the authority with a right of appeal.

<sup>4</sup> The cantonal appellate authority shall notify its decision to the persons with a right of appeal, the authorisation authority and, free of charge, to the authorities with a right of appeal, stating the grounds therefor and providing instructions on rights of appeal.

#### **Art. 21<sup>44</sup>** Appeal to the federal authorities

<sup>1</sup> An appeal to the federal authorities is governed by the general provisions on the administration of federal justice.

<sup>2</sup> The parties and authorities with the right to appeal to the cantonal court of appeal may also appeal to the federal authorities.

<sup>44</sup> Amended by Annex No 17 of the Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS **2006** 2197; BBl **2001** 4202).

**Art. 22** Gathering evidence

<sup>1</sup> The authorisation authority and the cantonal appellate authority shall establish the circumstances of the case *ex officio*. They shall rely only on submissions that they have verified and, if need be, on which they have obtained evidence.

<sup>2</sup> The authorisation authority, the cantonal appellate authority, the federal courts and, other than in proceedings involving these authorities, the cantonal authority with right of appeal and the Federal Office of Justice may request information on all matters that are of significance in assessing whether authorisation is required or should be granted.<sup>45</sup>

<sup>3</sup> A person must provide information if he or she is involved in the financing or in any other way in the preparation, conclusion or the implementation of an acquisition transaction, whether *ex officio*, professionally, contractually, or as an officer of an entity or company without legal personality or an investment fund; he or she must on request allow the inspection of business records, correspondence or receipts, or hand the same over.

<sup>4</sup> The authority may refuse to authorise an acquisition if a person required to provide information fails to cooperate when it is necessary and reasonable to do so.

**Art. 23** Precautionary measures

<sup>1</sup> The cantonal authorities and, other than in proceedings, the Federal Office of Justice may order precautionary measures in order to preserve a legal or factual state of affairs.

<sup>2</sup> The appeal against a precautionary ruling does not have suspensive effect.

**Art. 24** Mutual and administrative assistance

<sup>1</sup> The administrative and judicial authorities of the Confederation and the cantons shall provide each other with mutual and administrative assistance.

<sup>2</sup> If, while acting in their official capacity, authorities or public officials become or are made aware of infringements, they must report the same immediately to the competent cantonal prosecution authority, the cantonal authority with right of appeal or to the Federal Office of Justice.

<sup>3</sup> The responsible authorities shall provide the Federal Office of Justice with the information on the acquisition of immovable property by foreign non-residents required to compile and publish statistics thereon; the Federal Office of Justice shall provide the competent authorities with information on matters of relevance to the authorisation requirement or granting authorisation.

<sup>45</sup> Amended by Annex No 17 of the Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS **2006** 2197 1069; BBl **2001** 4202).

## Chapter 5 Sanctions

### Section 1 Administrative Law

**Art. 25** Revocation of authorisation and retrospective declaration of the authorisation requirement<sup>46</sup>

<sup>1</sup> Authorisation is revoked ex officio if the acquirer has wilfully obtained the same by providing incorrect information or has failed to comply with a condition despite being warned to do so.

<sup>1bis</sup> The authorisation requirement shall be imposed retrospectively ex officio if the acquirer has provided incorrect or incomplete information to a responsible authority, the land registrar or the commercial registrar on matters that are of relevance to the authorisation requirement.<sup>47</sup>

<sup>2</sup> Sanctions under the law on foreign nationals are reserved.

### Section 2 Private Law

**Art. 26** Invalidity and nullity

<sup>1</sup> Transactions involving an acquisition for which the acquirer requires authorisation are invalid in the absence of legally enforceable authorisation.

<sup>2</sup> They become null and void if:

- a. the acquirer executes the transaction without applying for authorisation or before authorisation becomes legally enforceable;
- b. the authorisation authority has refused or revoked authorisation in a legally enforceable decision;
- c. the land registrar or commercial registrar refuses to register the transaction irrespective of whether the authorisation authority has previously refused authorisation;
- d. the auction authority rescinds its acceptance of the bid irrespective of whether the authorisation authority has previously refused authorisation.

<sup>3</sup> Transactions that are invalid or null and void must be recognised as such ex officio.

<sup>4</sup> The invalidity or nullity of a transaction has the following consequences:

- a. the promise of a consideration may not be enforced;
- b. the reimbursement of a consideration may be demanded within one year of the plaintiff becoming aware of his right to reimbursement or within one year

<sup>46</sup> Amended by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BB1 1997 II 1221).

<sup>47</sup> Inserted by No I of the FA of 30 April 1997, in force since 1 Oct. 1997 (AS 1997 2086; BB1 1997 II 1221).

of the completion of criminal proceedings, but at the latest within ten years of consideration being provided;

- c. legal action is taken ex officio for restore the original legal position (*restitutio in integrum*).

#### **Art. 27** *Restitutio in integrum*

<sup>1</sup> The cantonal authority with right of appeal or, if this authority does not act, the Federal Office of Justice, shall take legal action against the parties:<sup>48</sup>

- a. to restore the original position where a property has been acquired through a transaction that is null and void due to lack of authorisation;
- b. to dissolve the legal entity with forfeiture of its assets to the state authority where the case falls under Article 57 paragraph 3 of the Swiss Civil Code<sup>49</sup>.

<sup>2</sup> If restoration of the original position proves impossible or inappropriate, the court shall order a public auction under the regulations on the compulsory sale of immovable property. The acquirer may only claim the overall cost of purchasing the immovable property; any surplus falls to the canton.

<sup>3</sup> An action to restore the original position is not required if the parties have already done so or a third party has acquired the immovable property in good faith.

<sup>4</sup> Both actions must be brought:

- a. within one year of a legally enforceable decision that renders the transaction null and void;
- b. and within ten years of the acquisition; the limitation period is suspended during administrative proceedings;
- c. at the latest until the right to bring criminal proceedings becomes time barred if this deadline is later.

<sup>5</sup> The protection of rights in rem acquired in good faith and the right to damages is governed by Article 975 paragraph 2 of the Swiss Civil Code.

### **Section 3 Criminal Law**

#### **Art. 28** Evading authorisation

<sup>1</sup> Any person who wilfully executes a transaction that is null and void due to lack of authorisation or who as an heir requiring authorisation for an acquisition fails to apply for the same within the deadline is liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>50</sup>

<sup>48</sup> Amended by Annex No 4 of the Civil Jurisdiction Act of 24 March 2000, in force since 1 Jan. 2001 (AS 2000 2355; BBl 1999 2829).

<sup>49</sup> SR 210

<sup>50</sup> Amended by Art. 333 of the Criminal Code in the version of the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459).

<sup>2</sup> If the offender acts for commercial gain, the penalty is a custodial sentence not exceeding three years or monetary penalty of not less than 180 daily penalty units.<sup>51</sup>

<sup>3</sup> If the offender acts through negligence, the penalty is a fine not exceeding 50,000 francs.

<sup>4</sup> If the offender restores the original position, the court may reduce the penalty.

#### **Art. 29**            Incorrect information

<sup>1</sup> Any person who wilfully provides incorrect or incomplete information to a responsible authority, the land registrar or the commercial registrar on matters that are of relevance to the authorisation requirement or granting authorisation or who fraudulently exploits an error by any of these authorities is liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>52</sup>

<sup>2</sup> Any person who provides incorrect or incomplete information through negligence is liable to a fine not exceeding 50,000 francs.

#### **Art. 30**            Disregarding conditions

<sup>1</sup> Any person who wilfully disregards a condition is liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>53</sup>

<sup>2</sup> If the offender acts through negligence, the penalty is a fine not exceeding 50,000 francs.

<sup>3</sup> If the condition is subsequently revoked or if the offender subsequently complies with the condition, the penalty is a fine not exceeding 20,000 francs.

<sup>4</sup> The criminal court may not issue its judgment until a final judgment has been issued in the proceedings for the revocation of the condition.

#### **Art. 31**            Refusal to provide information or produce documents

Any person who refuses to comply with an obligation to provide information or produce documents imposed on him or her by the competent authority under threat of penalties under this Article is liable to a fine not exceeding 50,000 francs.<sup>54</sup> No offence is committed if the person concerned is bound by professional secrecy under Article 321 of the Criminal Code<sup>55</sup>.

<sup>51</sup> Amended by Art. 333 of the Criminal Code in the version of the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459).

<sup>52</sup> Amended by Art. 333 of the Criminal Code in the version of the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459).

<sup>53</sup> Amended by Art. 333 of the Criminal Code in the version of the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459).

<sup>54</sup> Amended by Art. 333 of the Criminal Code in the version of the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459).

<sup>55</sup> SR **311.0**. Now: under art. 321 and 321<sup>bis</sup>.

**Art. 32** Time limits

<sup>1</sup> Any prosecution must be brought:

- a. within two years in the case of refusal to provide information or produce documents;
- b. within five years for other contraventions;
- c. within ten years for misdemeanours.

<sup>2</sup> The penalty for a contravention must be enforced within five years.

**Art. 33** Forfeiture of unlawfully obtained advantages

<sup>1</sup> Any person who obtains an unlawful advantage through an unlawful act that has not been remedied by a civil action shall, before the time limit for bringing a prosecution expires and irrespective of the criminal liability of any specific person, be required to pay an equivalent amount to the canton.

<sup>2</sup> Gifts and other payments are forfeited in accordance with Articles 70–72 of the Criminal Code.<sup>56</sup>

**Art. 34** Offences in the course of commercial operations

Offences in the course of commercial operations are governed by analogy by Articles 6 and 7 of the Federal Act of 22 March 1974<sup>57</sup> on Administrative Criminal Law.

**Art. 35** Prosecution

<sup>1</sup> Prosecution is the responsibility of the cantons.

<sup>2</sup> Immediate notice must be given free of charge to the Office of the Attorney General of Switzerland (OAG) of the institution of criminal proceedings, decisions to dismiss proceedings, summary penalty orders and convictions; the OAG may at any time request information on the status of ongoing criminal proceedings.

<sup>3</sup> ...<sup>58</sup>

**Chapter 6** Final Provisions**Art. 36** Implementing provisions

<sup>1</sup> The Federal Council and the cantons shall issue the required implementing provisions.

<sup>56</sup> Amended by Art. 334 of the Criminal Code in the version of the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459).

<sup>57</sup> SR **313.0**

<sup>58</sup> Repealed by Annex 1 Sec. II 6 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

<sup>2</sup> Apart from the required implementing provisions, the cantons may also, where this Act authorises them to do so, issue further temporary provisions by ordinance not subject to a referendum; such ordinances remain in force until the enactment of statutory provisions, but for no longer than three years following the commencement of this Act.

<sup>3</sup> Notice must be given to the Federal Office of Justice of the provisions that the cantons and the communes issue.<sup>59</sup>

**Art. 37** Repeal and amendment of other legislation

<sup>1</sup> The Federal Decree of 23 March 1961<sup>60</sup> on the Acquisition of Immovable Property in Switzerland by Foreign Non-Residents is repealed.

<sup>2</sup> ...<sup>61</sup>

**Art. 38** Transitional provision

This Act and the implementing provisions based thereon apply to authorisations that are granted following the commencement of this Act by the authority of first instance, unless they are based on legally binding general authorisations under the previous law<sup>62</sup>.

**Art. 39** Authorisation quotas

The Federal Council shall fix the maximum number of authorisations for the whole of Switzerland for holiday homes and accommodation units in aparthotels for an initial period of two years at a number equivalent to two thirds of all the authorisations that were granted on average over the five years prior to the commencement of this Act for the acquisition of second homes in accordance with the previous law.

**Art. 40** Referendum and commencement

<sup>1</sup> This Act is subject to an optional referendum.

<sup>2</sup> It comes into force on 1 January 1985, provided the popular initiative «against selling off our native land» has previously been withdrawn or rejected.<sup>63</sup> If this is not the case, the Federal Council shall determine the commencement date.

<sup>59</sup> Amended by No I of the FA of 8 Oct. 2004, in force since 1 April 2005 (AS 2005 1337; BBl 2003 4357).

<sup>60</sup> [AS 1961 203, 1965 1239, 1970 1199, 1974 83, 1977 1689 Sec. II, 1982 1914]

<sup>61</sup> The amendment may be consulted under AS 1984 1148.

<sup>62</sup> [AS 1972 1062. AS 1974 94 Art. 26]

[AS 1974 109, 1975 1303, 1976 607. AS 1976 2389 Art. 5 para. 3]

[AS 1976 2389, 1979 806, 1980 1875, 1981 2070, 1982 2235, 1983 1614]

<sup>63</sup> The initiative was rejected on 20 May 1984 (BBl 1984 II 989).

**Final Provisions Amendment of 30 April 1997<sup>64</sup>**

<sup>1</sup> The amendment to this Act applies to legal transactions that are concluded but not yet executed or made subject to a final court judgment before this amendment comes into force.

<sup>2</sup> Conditions attached to an authorisation lapse ex officio if they are not required under the new law or the new law no longer requires authorisation for the acquisition; they shall be deleted from the land register at the acquirer's request.

<sup>3</sup> Unless the land registrar can readily establish whether a condition has lapsed ex officio, he or she shall refer the applicant to the authorisation authority; Article 18 paragraph 1 applies in an analogous manner.

**Final Provisions Amendment of 8 October 1999<sup>65</sup>**

The Final Provisions based on the Amendment of 30 April 1997<sup>66</sup> apply by analogy to this Amendment.

**Final Provisions Amendment of 14 December 2001<sup>67</sup>**

This Amendment applies to legal acts that are concluded before this Amendment comes into force but have not yet been executed or made subject to a final court judgment.

**Final Provisions Amendment of 25 September 2020<sup>68</sup>**

The final provisions of the Amendment of 30 April 1997<sup>69</sup> apply *mutatis mutandis* to the Amendment of 25 September 2020.

<sup>64</sup> AS 1997 2086; BBl 1997 II 1221

<sup>65</sup> AS 2002 701; BBl 1999 6128

<sup>66</sup> AS 1997 2086

<sup>67</sup> AS 2002 685; BBl 2001 4963

<sup>68</sup> AS 2021 85; BBl 2020 1029

<sup>69</sup> AS 1997 2086

