

Brief on the *Prohibition on the Purchase of Residential Property by Non-Canadians Act*

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On June 23rd, 2022, the government passed the *Prohibition on [the Purchase of Residential Property by Non-Canadians Act](#)*. On December 21st, 2022, the Act's [regulation](#) was published in the Canadian Gazette.

The legislation bans non-Canadians from directly or indirectly purchasing residential property in Canada for the next two years. Section 2 of the Act defines residential property as a detached house or similar building with three or fewer dwellings, and parts of buildings, like semi-detached homes or condo units.

A non-Canadian that violates the prohibition, or any person or entity that knowingly assists a non-Canadian in violating the prohibition, is guilty of an offence and liable to a fine of up to \$10,000 if convicted.

The legislation and the regulations came into force on January 1st, 2023.

Below is a summary of the *Prohibition on the Purchase of Residential Property by Non-Canadians Act Regulations*:

[Residential Properties Not in a Census Agglomeration or Census Metropolitan Area Are Exempt](#)

The Act applies only to residential properties in a “census agglomeration” or a “census metropolitan area.” Both definitions are based on Statistics Canada’s [Standard Geographical Classification](#).

A census agglomeration area requires a core population of at least 10,000 based on data from the previous Census of Population Program. A census metropolitan area must have a population of at least 100,000 based on data from the current Census of Population Program, of which at least 50,000 must live in the core. A map of the impacted areas can be found [here](#).

The ban also applies to vacant land in a census agglomeration or census metropolitan area zoned for residential use or mixed use, even if there is no dwelling on the land.

Homes in municipalities with a core population of less than 10,000, as well as recreational properties (e.g., cottages), are not subject to the ban.

[Definition of “Non-Canadian”](#)

The regulation expands the definition of non-Canadian to include entities that were formed other than under the laws of Canada or a province but controlled by an individual who is a non-Canadian. Entities that would fall under this definition include partnerships, trusts, and all other persons who are not individuals or corporations.

Under sections 5 and 6 of the regulation, the ban does not apply to the following:

- Canadian citizens and permanent residents.



- International students who have spent a minimum of 244 days in each of the five calendar years preceding the year in which the purchase was made, have filed tax returns in Canada for at least three of the four years before purchasing a property, and have not previously purchased a residential property in Canada while the ban is in effect. The purchase price of a residential property also cannot be more than \$500,000.
- Workers with a valid work permit or authorization, have worked full-time, and have filed tax returns in Canada for at least three out of the four years before purchasing a property.
- Diplomats, consular staff, and members of international organizations living in Canada.
- Foreign nationals with temporary resident status, including people fleeing conflict, and refugees.

Section 8 of the regulation also states that the Act does not apply if incompatible with the rights recognized and affirmed by section 35 of the *Constitution Act, 1982*. Section 35 of this Act recognizes and affirms the existing Aboriginal and treaty rights of Indigenous peoples of Canada.

[Issuing Orders for Contravening the Act](#)

The Act states that contraventions against the legislation will include fines of up to \$10,000 per person or entity that assists a non-Canadian in purchasing directly or indirectly any residential property.

Section 7(1) of the Act also permits a court to order that a residential property purchased in contravention of the Act be sold following an application from the Minister, and the non-Canadian individual or entity is not returned more than the price paid to purchase the property.

Regulation 7(1) states that the following conditions must be met for a court to order that a residential property be sold:

1. The non-Canadian is the owner of the residential property at the time the order is made;
2. Notice has been given to every person who may be entitled to receive proceeds from the sale; and
3. The superior court of the province is satisfied that the impact of the order would not be disproportionate to the nature and gravity of the contravention, the circumstances surrounding the commission of the contravention, and the resulting conviction.

Section 7(2) of the regulation outlines that any order under the Act must include the term that proceeds of the sale be distributed in a specific order:

1. The Minister's costs are to be repaid, along with any outstanding fines to be paid by the non-Canadian;
2. The payment of those, other than the non-Canadian, who are entitled to receive the proceeds of the sale in amounts and according to priorities that the superior court may determine;
3. The repayment of the non-Canadian of amounts not greater than the purchase price for the sale; and
4. The payment of any amount remaining to the Receiver General for Canada.

To determine whether the Act applies to your members and/or specific properties, we encourage you to seek external legal advice.

For additional information, please see below:

[The Purchase of Residential Property by Non-Canadians Act](#)
[Prohibition on the Purchase of Residential Property by Non-Canadians Act Regulations](#)
[CMHC: Highlights and FAQ](#)

