Foreigner’s Land Acquisition Act (Republic of Korea)

By Ministry of Legislation

INTRODUCTION

Details of Enactment and Amendment

● Enactment: This Act was enacted on January 7, 1994 as the Act on the Acquisition of Lands by Foreigners and their Management, in order to generally improve and supplement the previous system of land acquisition by foreigners, for example, by allowing foreigners and foreign enterprises easier acquisition of land needed for their business affairs. With the enactment of this Act, the Foreigner’s Land Acquisition Act previously in enforcement (September 18, 1961, Act No. 718) was repealed.

● Amendment: This Act has arrived at its present form as result of being wholly amended on May 25, 1998 and amended in part on January 21, 1999. Consequently, the title of the Act has been changed to the Foreigner’s Land Acquisition Act, and activation of investment by foreigners is aimed for by overall abolishment of restrictions related with land acquisition and management by foreigners, for example, by changing the permission-based system of land acquisition to the reporting-based system.

Main Contents

● When a foreigner, a foreign government, or an international organization concludes a contract for land acquisition within the territory of the Republic of Korea, it shall be reported to the head of Shi/Kun/Ku within sixty days after the date on which the contract is concluded, but permission shall be obtained prior to the contract for land acquisition for certain areas only, such as military installation protection areas, cultural property protection areas, and ecosystem conservation areas.

● When a foreigner, a foreign government, or an international organization acquires land within the territory of the Republic of Korea due to a cause other than a contract (inheritance, auction, etc.), it shall be reported to the head of Shi/Kun/Ku within six months after the date on which the land is acquired.

● When a national of the Republic of Korea, or a corporation or an organization established in accordance with the Acts and subordinate statutes of the Republic of Korea who/that has land within the territory of the Republic of Korea changes his/its nationality and then desires to continue to own the land, he/she shall report it to the head of Shi/Kun/Ku within six months after the date of change of the nationality.

● A foreigner who enters into a contract to acquire land that is subject to the requirement of obtaining permission for acquisition without obtaining the permission or after obtaining the
permission by unjust means shall be criminally punished (by imprisonment for not more than two years or a fine not exceeding twenty million won), and a fine for negligence not exceeding three million won shall be assessed against a person who fails to report land acquisition or makes a false report after acquiring land that is subject to the requirement of being reported after acquisition.

Wholly Amended by May 25, 1998 Act No. 5544
Amended by Jan. 21, 1999 Act No. 5656

■ Article 1 (Purpose)

The purpose of this Act is to prescribe matters necessary for foreigner’s land acquisition within the territory of the Republic of Korea.

■ Article 2 (Definition)

For the purpose of this Act, the term "foreigner" means an individual, juristic person, or organization falling under any of the following subparagraphs:

1. An individual who does not have the nationality of the Republic of Korea; and

2. A juristic person or organization which falls under any of the following items:

   (a) A juristic person or organization which is established in accordance with foreign Acts and subordinate statutes;

   (b) A juristic person or organization where not less than half of its employees or members fall under subparagraph 1;

   (c) A juristic person or organization where not less than half of the officers such as employees executing its affairs or directors fall under subparagraph 1; and

   (d) A juristic person or organization where individuals falling under subparagraph 1 or juristic persons or organizations falling under item (a) have not less than half of its capital or voting rights. In this case, when calculating the capital or the number of voting rights, the bearer-type shares of a stock company shall be considered to belong to an individual falling under subparagraph 1 or a juristic person or organization falling under item (a).

■ Article 3 (Principle of Reciprocity)
An individual, juristic person, organization, or government of a foreign country which prohibits or limits a national of the Republic of Korea, a juristic person or organization established in accordance with the Acts and subordinate statutes of the Republic of Korea, or the Government of the Republic of Korea, from acquiring or transferring land within its own territory, may be prohibited or limited from acquiring or transferring land within the territory of the Republic of Korea by the Minister of Construction and Transportation in accordance with the relevant provision of the Presidential Decree.

■ Article 4 (Report on Land Acquisition by Contract)

(1) Where a foreigner, a foreign government, or an international organization prescribed by the Presidential Decree (hereinafter referred to as a "foreigner") concludes a contract for land acquisition within the territory of the Republic of Korea (hereinafter referred to as a "land acquisition contract"), it shall report the conclusion of the contract to the head of Shi/Kun/Ku (referring to an autonomous Ku; hereinafter the same shall apply) within the following 60 days in accordance with the relevant provision of the Presidential Decree.

(2) Notwithstanding the provisions of paragraph (1), in case of acquiring the land located in a district or area falling under any of the following subparagraphs, the foreigner shall obtain permission from the head of Shi/Kun/Ku before the conclusion of the contract in accordance with the relevant provision of the Presidential Decree:

1. Military installation protection areas under subparagraph 2 of Article 2 of the Protection of Military Installations Act, naval bases under Article 3 of the Naval Bases Act, base protection areas under subparagraph 9 of Article 2 of the Military Air Bases Act, or such other areas as may be especially necessary to limit foreigner's land acquisition for the purpose of national defense as prescribed by the Presidential Decree;

2. Designated cultural properties, and protectors or reservations for them under Article 2 (2) of the Protection of Cultural Properties Act; and

3. Deleted;

4. Ecosystem conservation areas under subparagraph 12 of Article 2 of the Natural Environment Conservation Act.

(3) As long as a foreigner's land acquisition in a district and area falling under any subparagraph of paragraph (2) does not cause any inconveniences in the related district and area, the head of Shi/Kun/Ku shall permit the foreigner's land acquisition in accordance with paragraph (2).

(4) No land acquisition contract concluded in violation of paragraph (2) shall have any effect.

■ Article 5 (Report on Land Acquisition Caused by Reasons other than Contract)
Where a foreigner acquires land within the territory of the Republic of Korea by means of inheritance, auction, or any cause other than contracts prescribed by the Presidential Decree, he/she shall report it to the head of Shi/Kun/Ku within 6 months after his/her land acquisition in accordance with the relevant provision of the Presidential Decree.

■ Article 6 (Report on Continuous Holding of Land)

Where a national of the Republic of Korea, or a juristic person or organization established in accordance with the Acts and subordinate statutes of the Republic of Korea, which has land within the territory of the Republic of Korea, changes its nationality and then desires to keep the land, it shall report to the head of Shi/Kun/Ku within 6 months after the change of the nationality in accordance with the relevant provision of the Presidential Decree.

■ Article 7 (Penal Provisions)

Where a foreigner concludes a land acquisition contract without obtaining permission under Article 4 (2) or with obtaining permission by any unjust means, he/she shall be sentenced to imprisonment for not more than two years or to a fine not exceeding twenty million won.

■ Article 8 (Joint Penal Provisions)

Where a representative of a juristic person, or an agent, employee, or other personnel of a juristic person or individual commits an offense provided for in Article 7 in connection with affairs of the juristic person or individual, not only shall such an actor be sentenced accordingly, but its juristic person or individual shall be sentenced to the fine provided for in the same Article.

■ Article 9 (Fine for Negligence)

(1) A person who fails to report land acquisition under Article 4 (1) or makes a false report, shall be sentenced to a fine for negligence not exceeding three million won.

(2) A person who falls under any of the following subparagraphs shall be sentenced to a fine for negligence not exceeding one million won.

1. A person who fails to report land acquisition under Article 5 or makes a false report; or

2. A person who fails to report the continuous holding of land under Article 6 or makes a false report.

(3) A fine for negligence provided for in paragraphs (1) and (2) shall be imposed and collected by the head of Shi/Kun/Ku in accordance with the relevant provision of the Presidential Decree.

(4) A person who is dissatisfied with the disposition of a fine for negligence under paragraph (3) may raise an objection against it to the head of Shi/Kun/Ku within thirty days after receiving its notification.
(5) Where a person who is subject to the disposition of a fine for negligence under paragraph (3) raises an objection against it under paragraph (4), the head of Shi/Kun/Ku shall forthwith notify the competent court, and the court shall, upon the receipt of such notification, bring the case to a trial for negligence under the Non-Contentious Case Litigation Procedure Act.

(6) Where no objection is raised and no fine for negligence is paid within a definite period under paragraph (4), the fine for negligence shall be collected according to the rules of dispositions on delinquency of local tax.

ADDENDA

■ Article 1 (Enforcement Date)

This Act shall enter into force one month after the date of its promulgation.

■ Article 2 (Transitional Measures concerning Previous Permission and Report)

(1) Where any permission or report on the acquisition or continuous holding of land was granted or made under the previous provisions at the time this Act enters into force, it shall be considered to have been granted or made in accordance with the amended provisions of Article 4 (1) and (2), 5, or 6.

(2) Where a foreigner who failed to obtain permission or make a report on the acquisition or continuous holding of land under the previous provisions at the time this Act enters into force, obtains permission or makes a report in accordance with the amended provisions of Article 4 (1) and (2), 5, or 6 within one year after the date of its enforcement, he shall be considered to have obtained permission or made a report in accordance with the previous provisions.

■ Article 3 (Transitional Measures concerning Penal Provisions)

The application of penal provisions against an illegal act before the enforcement of this Act shall be made in accordance with the previous provisions: Provided, That the same shall not apply to the permission obtained or report made in accordance with the amended provisions of Article 2 (2) of the Addenda within one year after this Act enters into force.

■ Articles 4 Omitted.

ADDENDA

■ Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1999.

■ Articles 2 and 3 Omitted.

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