

# GMS Flash Alert

## Immigration Edition

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# Canada - Prohibiting Non-Canadians from Purchasing Homes

The government of Canada recently passed the *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (the Act), which will prohibit non-residents from purchasing residential real estate in Canada for a two-year period beginning January 1, 2023.<sup>1, 2</sup>

## WHY THIS MATTERS

The Act may impact foreign nationals who are seeking to relocate to Canada for employment purposes as they may be prohibited from owning a home.

Certain foreign nationals who are legally permitted to work and study in Canada may be able to qualify for an exemption from the prohibition.

Companies may face challenges in relocating staff to Canada for business operations if their employees are unable to buy a home in Canada. This uncertainty may also result in challenges for relocation providers and management companies.

## What Is the *Prohibition on the Purchase of Residential Property by Non-Canadians Act*?

Coming into force on January 1, 2023, the Act prohibits the purchase of residential property in Canada by non-Canadians unless they are exempted by the Act or its regulations,<sup>3</sup> or the purchase is made in certain circumstances specified in the regulations.

## Who Is Deemed “Non-Canadian”?

For the purposes of the Act, a “non-Canadian” is defined an individual who is not:

- a Canadian citizen;
- a person registered as an Indian under the *Indian Act*;
- a permanent resident of Canada;
- a corporation that has not been incorporated in Canada;
- a corporation incorporated in Canada that is controlled by foreign corporations or foreign individuals; and
- a prescribed person or entity pursuant to the regulations.

Non-Canadians will not be able to purchase detached houses or similar buildings that contain up to three dwelling units. Semi-detached houses, rowhouse units, residential condominium units, or any part of these buildings that are intended to be owned separately from other units in the building are also captured.

## Exceptions to the Act

The following groups are exempt from the application of the Act:

- Temporary residents within the meaning of the *Immigration and Refugee Protection Act*;
- Non-Canadians who purchase residential property in Canada with their spouse or common-law partner, if the spouse or common-law partner is:
  - a Canadian citizen,
  - a person registered as an Indian under the Indian Act, or
  - a permanent resident of Canada; and
- Foreign states that purchase residential property in Canada for diplomatic or consular purposes.

### Exceptions: Temporary Residents

Under the Act, exempt temporary residents include foreign nationals who are enrolled in a program of authorized study at a designated learning institution (DLI), a school approved by the Canadian government to host international students, or certain work permit holders so long as they meet conditions outlined in the regulations.

Individuals who are enrolled in a DLI may purchase a residential property in Canada if they meet each of the following conditions:

- They filed all required income tax returns under the *Income Tax Act* for each of the five taxation years preceding the year in which they purchase a home;
- They were physically present in Canada for at least 244 days in each of the five calendar years preceding the year in which they purchase a home;

- The purchase price of the residential property does not exceed \$500,000 [all dollar figures expressed are Canadian dollars]; and
- They have not purchased more than one property.

Individuals who hold a Canadian work permit and those authorized to work under section 186 of the *Immigration and Refugee Protection Regulations* (“IRPR” or “regulations”) may purchase a residential property in Canada if they meet each of the following conditions:

- They worked in Canada for at least three years within the four years preceding the year in which they purchase a home, if the work is full-time work;
- They filed all required income tax returns under the *Income Tax Act* for a minimum of three of the four taxation years preceding the year in which they purchase a home; and
- They have not purchased more than one residential property.

Individuals who are authorized to work under section 186 of the *IRPR* may include,<sup>4</sup> but are not limited to, business visitors, an individual participating in sports activities, an employee of a foreign news company, and others.

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## KPMG NOTE

### Who Could Be Eligible to Purchase a Home?

Overall, the Act suggests that foreign workers and international students who have lived in Canada for extended periods of time and have been working toward obtaining permanent residence status will be allowed to purchase homes in Canada.

### Penalties

Those who contravene the Act may be convicted and fined up to \$10,000 and a court may determine that a property be sold.

### Context and Why This Act

The Act is designed to protect and balance Canada’s real estate market from foreign buyers; however, the Act will impact certain populations of foreign nationals in Canada, who are required to fill in-demand, high-skilled positions.

### Considerations for Employers

Employers should provide details of the new requirements to employees to help ensure they are aware of their rights to buy a home in Canada.

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Individuals who have questions or concerns about the new measures are encouraged to contact their usual immigration counsel or KPMG Law LLP (see the Contact Us section below) for further guidance.

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## FOOTNOTES:

1 See the text (online) of *Prohibition on the Purchase of Residential Property by Non-Canadians Act* S.C. 2022, c. 10, s. 235 at: <https://laws-lois.justice.gc.ca/eng/acts/P-25.2/page-1.html>.

2 For related coverage, see [GMS Flash Alert 2022-213](#), December 2, 2022.

3 See the text (online) of Prohibition on the Purchase of Residential Property by Non-Canadians Regulations: SOR/2022-250 at: <https://canadagazette.gc.ca/rp-pr/p2/2022/2022-12-21/html/sor-dors250-eng.html>.

4 See (online) *Immigration and Refugee Protection Regulations* (SOR/2002-227) at: <https://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/section-186.html>.

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## We are pleased to share with you the [2022 KPMG Global Assignment Policies and Practices Survey Report](#)

For global-mobility leaders of multinational organisations, benchmarking their global-mobility policies and practices against those of other global organisations can be a powerful tool for reflecting on their current approach and preparing their talent-mobility program for the future.

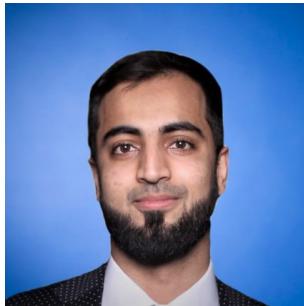
The [results of this year's survey](#) shed light on how global-mobility programs are evolving in terms of mobility, tax, and immigration policies, governance, technology and more!

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Canada:



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