

**THE MINISTRIES OF FOREIGN AFFAIRS
AND INTERNAL AFFAIRS**

**The Cabinets of the Ministers of Foreign Affairs
And of Internal Affairs**

Order n. 11820-A/2012

Act n. 29/2012 of August 9, amends Act n. 23/2007 of July 4, laying down the legal framework for the entry, permanence and exit of foreigners from national territory.

Article 90-A of Act 23/2007, of July 4, as amended by Act 29/2012 of August 9, provides for the granting of residence permit to third States citizens, for the purpose of performing investment activities, on the basis of compliance with certain requirements.

As defined by paragraph 3, Article 90, the implementing rules for the specific legal mechanism pursuant to this norm shall be ruled by Order of the members of the government in charge of Foreign Affairs and Internal Affairs.

Hence, we hereby define the conditions for granting residence permit on grounds of the specific legal mechanism for investment activities.

Therefore, under the provisions of paragraph 3, Article 90-A of Act 23/2007, of July 4, as amended by Act 29/2012, of August 9, the Minister of State and Foreign Affairs, and the Minister of Internal Affairs, hereby determine:

Article 1

Object

The present Order sets out the requirements for applying the specific legal mechanism of granting and renewing residence permit, with exemption of a residence visa, for the purpose of performing investment activities in National Territory (ARI), specifically with regards minimum quantitative requirements, minimum periods of permanence, and means of evidence.

Article 2

Subjective scope of application

- 1- This Order applies to all third State citizens who apply for ARI and who conduct one of the investment activities set out by sub-paragraph d), in Article 3 of Act n.23/2007 of July 4, as amended by Act n. 29/2012 of August 9.
- 2- Also entitled to apply for ARI, under the preceding paragraph, are all the third State citizens who hold share capital of a company with head office in Portugal, or in another Member-State of the European Union and with firm establishment in Portugal

Article 3

Minimum Quantitative Requirements related to an investment activity

- 1- For the purposes of obtaining ARI, the minimum quantitative requirements imply, at least, one of the following investments in national territories:
 - a) Capital transfer with a value equal to or above 1 million Euros;
 - b) The creation of, at least, 30 job positions; or
 - c) Purchase of real estate property with a value equal to or above 500 thousand Euros.

- 2- In the case referred to in sub-paragraph a) of the preceding paragraph, the requirement is deemed fulfilled upon the delivery of evidence by the applicant of investments made in the minimum value determined, with the exception of investment in shares of companies not listed in the stock exchange.
- 3- In the case referred to in subparagraph b), paragraph 1, the requirement is deemed fulfilled where the applicant presents evidence of having created 30 job posts and that all workers have been registered in the Social Security System.
- 4- In the case referred to in subparagraph c) of paragraph 1, the requirement is deemed fulfilled where the applicant presents evidence of having the free hold ownership of real estate property, without covenants or other encumbrances attached to.
- 5- Where one of the minimum quantitative requirements is fulfilled through a company, the value ascribable to the applicant of the ARI shall be the same as the value of his / her shares within the total share capital.
- 6- The minimum quantitative requirement set out by this article must be fulfilled when the residence permit application is delivered.

Article 4

Minimum investment time requirement

A five year minimum investment time is required and starts to run from the date of the granting of the residence permit.

Article 5

Minimum permanence period

- 1- For residence permit renewal purposes, applicants under paragraph 2 shall deliver evidence that they complied with

the following minimum periods of permanence in National Territory:

- a) 30 days in the 1st year;
 - b) 60 days in the subsequent two years.
- 2- Where the periods of permanence under the preceding paragraph have not been complied with, the application for renewal of residence permit can be turned down;
 - 3- The provisions under subparagraph b), paragraph 1 do not prevent the applicant of an ARI to apply for a permanent residence permit or for the Portuguese citizenship.

Article 6

Means of evidence for granting a residence permit

- 1- As means of evidence of compliance with the provisions under subparagraph a), paragraph 1, Article 3, the applicant shall deliver:
 - a) A statement issued by a financial institution accredited in National Territory certifying that the applicant is the sole or first holder of capital; or
 - b) An updated certificate issued by the Commercial Register, certifying that the applicant is the holder of share capital in a company.
- 2- As means of evidence of compliance with the provisions under subparagraph b), paragraph 1, Article 3, the applicant shall deliver an up-to-date certificate issued by the Social Security.
- 3- As means of evidence of compliance with the provisions under subparagraph c), paragraph 1, Article 3, the applicant shall deliver an up-to-date certificate issued by the Real Estate Registry.
- 4- As means of evidence of compliance with tax obligations, the applicant shall deliver a declaration proving the absence of debts issued by the Inland Revenue and Customs Authority and by the Social Security.

- 5- As means of evidence of permanence in National Territory, the applicant shall exhibit his / her valid passport.
- 6- The residence permit application must be accompanied by an affidavit signed by the applicant, who on his / her word of honor declares that he/ she shall comply with the minimum quantitative requirements and with the minimum investment time of the investment activity.
- 7- The evidence referred to in the preceding paragraphs shall be delivered together with the application for the granting of residence permit, submitted to the Portuguese Immigration and Borders Service of the applicant's area of residence.
- 8- The decision granting residence permit falls within the competence of the National Director of the Immigration and Borders Service.
- 9- The Immigration and Border Service may, at any time, demand for evidence of the minimum quantitative requirements and of the minimum permanence period.

Article 7

Means of evidence for renewal of residence permit

- 1- As means of evidence of compliance with the provisions of subparagraph a), paragraph 1, Article 3, the applicant shall deliver:
 - a) Declaration by a Financial Institution accredited in National Territory certifying the maintenance of a deposit with an average balance equal to or above 1 million Euros, or
 - b) Certificate up-to-date issued by the Commercial Register, attesting that the applicant holds share capital of a company.
- 2- As means of evidence of compliance with the provisions under subparagraph b), paragraph 1, Article 3, the applicant shall deliver an up-to-date Certificate issued by

the Social Security, attesting the maintenance of the 30 job positions initially created.

- 3- As means of evidence of compliance with the provisions of subparagraph c), paragraph 1, Article 3, the applicant shall deliver an up-to-date Certificate issued by the Real Estate Registry showing registrations, endorsements and entries in force, as proof of ownership of properties, free from covenants and encumbrances.
- 4- As evidence of having complied with tax obligations, the applicant shall deliver a Declaration to that effect, issued by the Inland Revenue and Customs Authority and by the Social Security.
- 5- As evidence of having remained in National Territory, the applicant shall exhibit his / her valid passport.
- 6- The application for renewal of residence permit shall be accompanied by an Affidavit, on the applicant's word of honor, stating that the minimum time and minimum quantitative requirements of the investment activity in National Territory shall be complied with.
- 7- The means of evidence and the declaration referred to in the preceding paragraph shall be delivered when the application for renewal of residence permit is submitted to the Portuguese Immigration and Borders Service of the applicant's area of residence.
- 8- The decision granting renewal of residence permit falls within the competence of the National Director of the Immigration and Borders Service.
- 9- The Immigration and Borders Service may, at any time, demand for evidence of the minimum quantitative requirements and of the minimum permanence period.

Article 8

Monitoring Group

- 1- For the purposes of implementing the provisions contained herein, a monitoring group shall be created, composed of the Director General of Consular Matters and Portuguese Communities, the National Director of the Portuguese Immigration and Borders Service and the President of the Business Development Agency, which shall meet when convened by any of its members.
- 2- The Monitoring Group shall held regular meetings monthly, and any of its members may convene extraordinary meetings.
- 3- The members indicated in paragraph 1 may nominate representatives to act on their behalves when they are absent or unavailable.
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Article 9
Transitional Provision

For the purposes of implementing the provisions set out in Article 3, are relevant the investment activities occurring after this Order takes effect.

Article 10
Entry into force

This Order shall take effect from the date of 8 October 2012.

3 September 2012 – The Minister of State and Foreign Affairs,
Paulo Sacadura Cabral Portas – The Minister of Internal Affairs,
Miguel Bento Martins Costa Macedo e Silva.

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