



FAQ on the Acquisition of Immovable Property in Switzerland by Foreign Non-Residents

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The following FAQs provide an overview of the rules that apply to the acquisition of property in Switzerland by foreign non-residents. These FAQs are not intended to be exhaustive; they are provided for information purposes only and are not legally binding.

More detailed questions on whether authorisation is required for specific transactions should be addressed directly to the licensing authority in the canton where the property is to be acquired. The contact details for these authorities are as follows:

[Contact details for the cantonal authorities](#)

I. The purpose of the law and its underlying principles

1 What is the purpose of the Federal Act on the Acquisition of Immovable Property in Switzerland by Foreign Non-Residents?

The stated aim of the Act is 'to prevent the excessive ownership of Swiss territory by foreign nationals' (Art. 1 ANRA). To achieve this aim, the Act restricts the acquisition (i.e. in most cases, purchase) of immovable property (real estate) in Switzerland by what it terms 'foreign non-residents'. As a result, foreign non-residents may, in principle, only acquire property in Switzerland with the authorisation of the appropriate cantonal authority (Art. 2 para. 1 ANRA).

2 Where can I find the rules on the acquisition of property by foreign non-residents?

At national level:

In the Federal Act of 16 December 1983 Acquisition of Immovable Property in Switzerland by Foreign Non-Residents ([ANRA, SR 211.412.41](#)).

In the Ordinance of 1 October 1984 on the Acquisition of Immovable Property in Switzerland by Foreign Non-Residents ([ANRO, SR 211.412.411](#)).

At cantonal level:

In the implementing provisions issued by the cantons. The cantons decide for themselves whether they wish to introduce additional 'grounds for authorisation' (i.e. exceptions that allow foreign non-residents to acquire property) or restrictions at cantonal level within the framework of ANRA – for example, regarding the acquisition of holiday homes and accommodation units in apart-hotels (Art. 3 para. 2, Art. 9 and Art. 13 para. 1 ANRA). The cantonal implementing provisions for ANRA can be found in the collections of cantonal legislation (though not in English).

At communal level:

In further discretionary provisions on the introduction of restrictions on the acquisition of holiday homes and accommodation units in apart-hotels at communal level (Art. 13 para. 2 ANRA). The relevant local regulations are available from the cantonal licensing authority responsible for the area where the property is located.

3 When does the acquisition of a property require authorisation?

Normally, for a transaction to require authorisation, the following three conditions must all be met:

- the person acquiring the property is a ‘foreign non-resident’ as defined in ANRA (subjective authorisation requirement; see Questions **Fehler! Verweisquelle konnte nicht gefunden werden.** ff.);
- the subject matter of the transaction is immovable property (i.e. a house, apartment or other building, and/or land) and is subject to authorisation (objective requirement for authorisation based on the intended use of the property; see Questions 18 ff.); and
- the acquired right is deemed to constitute an acquisition of immovable property as defined in ANRA (objective requirement for authorisation depending on the nature of the right; see Questions 34 ff.).

If the person acquiring the property is entitled to an exemption from the requirement for authorisation (see Questions 39 ff.), there is no need for authorisation, even if the three conditions mentioned above are met.

Furthermore, for the purposes of deciding whether authorisation is required and when granting authorisation, it is generally irrelevant whether the property already has a foreign owner and what legal form the acquisition of the property takes (purchase, exchange, gift, inheritance, bequest, takeover of assets or a business, merger, demerger, conversion or transfer of assets, etc.).

II. Foreign non-residents (subjective authorisation requirement)

A. Natural persons

4 When is a ‘natural person’ deemed to be a ‘foreign non-resident’?

The following natural persons (i.e. human beings as opposed to legal entities) are deemed to be ‘foreign non-residents’ Art. 5 para. 1 let. a, a^{bis} and d ANRA, Art. 2 ANRO):

- Foreign citizens who are not resident in Switzerland;
- Foreign citizens who are resident in Switzerland, but who are neither nationals of a Member State of the European Union (EU) nor of the European Free Trade Association (EFTA) nor holders of a valid C settlement permit;
- Any natural persons (including Swiss nationals) who acquire property on behalf of a foreign non-resident (i.e. in a ‘fiduciary transaction’).

The following natural persons are, by implication, not deemed to be ‘foreign non-residents’:

- Swiss nationals and Swiss dual nationals, irrespective of where they are resident, in Switzerland or abroad;
- Nationals of EU and EFTA member states who are lawfully and actually resident in Switzerland (in most cases holding an EU/EFTA B residence permit or an EU/EFTA C settlement permit, or possibly an EU/EFTA L short-stay permit; possibly as a person in the service of embassies, consulates or international organisations holding an legitimization card issued by the Federal Department of Foreign Affairs, or in the service of foreign railway, postal or customs administrations based in Switzerland with documentary proof of employment (*Dienstausweis/certificat de service/cerificato di servizio*);
- Nationals of other foreign states who hold a valid C settlement permit; persons employed by embassies, consulates and international organisations holding a legitimization card issued by the Federal Department of Foreign Affairs or employed by foreign railway, postal and customs administrations based in Switzerland (with documentary proof of employment) are not

considered to be foreign non-residents if they can prove that they have resided in Switzerland for a period sufficient to qualify for a settlement permit (5 or 10 years, depending on nationality).

5 Brexit – when are United Kingdom nationals not deemed to be ‘foreign non-residents’?

Citizens of the United Kingdom of Great Britain and Northern Ireland are not regarded as foreign non-residents if they

- (i) are lawfully and actually resident in Switzerland and
- (ii) their lawful right of residence in Switzerland was acquired on the basis of the Agreement on the Free Movement of Persons (AFMP; SR 0.142.112.681) – i.e. prior to 1 January 2021 – (usually they hold an EU/EFTA B residence permit or an EU/EFTA C settlement permit, or possibly an EU/EFTA L short-stay permit).

If this is the case, they continue to benefit from the rights they acquired under the Agreement on the Free Movement of Persons with the EU (Art. 5 para. 1 let. no 2 ANRA with reference to the Agreement of 25 February 2019 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; SR 0.142.113.672).

For citizens of the United Kingdom of Great Britain and Northern Ireland who moved to Switzerland after 31 December 2020 and who do not fall within the scope of the Agreement on the Acquired Rights of Citizens, the same rules apply as for nationals of non-EU/EFTA member states. Further information is available at:

- Factsheet dated 4 April 2019 regarding ANRA and Brexit: Federal Act on the Acquisition of Immovable Property in Switzerland by Foreign Non-Residents (ANRA; SR 211.412.41) and Brexit
- Update of 18 December 2020 to the factsheet of 4 April 2019 on ANRA and Brexit: Federal Act on the Acquisition of Immovable Property in Switzerland by Foreign Non-Residents (ANRA; SR 211.412.41) and Brexit

6 My wife is Swiss. Does that automatically mean I’m not a ‘foreign non-resident’?

No. For the purposes of deciding whether you are a foreign non-resident when acquiring Swiss property, the fact that your husband or wife is a Swiss citizen is irrelevant.

7 What applies to refugees – are they deemed to be ‘foreign non-residents’ as defined in ANRA?

Yes. Refugees who are third-country nationals and hold a B or F permit are deemed to be foreign non-residents (see Art. 5 para. 1 let a^{bis} ANRA in conjunction with Art. 2 para. 3 ANRO).

Recognised refugees who hold a B permit (Art. 60 para. 1 Asylum Act) may, subject to certain requirements, acquire a property as their main home at their lawful and actual place of residence in Switzerland without requiring authorisation (see Art. 2 para. 2 let. b ANRA in conjunction with Art. 5 ANRO and the Question 24 ff.).

8 And what is the position for people with Protection Status S?

On 12 March 2022, the Federal Council activated Protection Status S for the first time for people from Ukraine who are seeking refuge from the war there. Ukrainian nationals (third-country nationals) and those with Protection Status S are regarded as foreign non-residents.

Protection Status S does not meet the residence requirements in ANRA. Therefore, the acquisition of a main home requires authorisation (Art 5 para 2 ANRO). Whether the acquisition of a holiday home can be approved must be assessed on a case-by-case basis.

9 What is meant by a person being ‘lawfully resident’?

Nationals of EU/EFTA member states are lawfully resident in Switzerland if they hold a valid EU/EFTA short-stay, residence or settlement permit (Art. 4 para 1 and Art. 5 of the Ordinance of 22 May 2002 on the Free Movement of Persons, FMPO). Nationals of other foreign states require a valid settlement permit (Art. 34 Foreign Nationals and Integration Act of 16 December 2005, FNIA), a valid residence permit (Art. 33 FNIA) or ‘another form of authorisation’ (Art. 2 para. 3 and Art. 5 para. 2 ANRO). This ‘other form of authorisation’ is the authorisation granted to persons in the service of institutional beneficiaries under the Host State Act (SR 192.12) who hold a legitimisation card issued by the Federal Department of Foreign Affairs, and to persons in the service of branches of foreign railway, postal and customs administrations based in Switzerland who can provide documentary proof of their employment (see Art. 2 para. 4 and Art. 5 para 3 ANRO).

10 Where is a person’s ‘actual place of residence’?

Under Articles 23, 24 paragraph 1, 25 and 26 of the Civil Code (CC, SR 210), a person’s place of residence (referred to there as ‘domicile’) is where they ‘reside with the intention of settling’, where the centre of their personal life is located, where they regularly spend their free time, maintain family and social relationships, and participate in community life. Foreign nationals who claim that they do not need authorisation to acquire property because their actual place of residence is in Switzerland (Art. 2 para. 1 ANRO) must provide evidence of this. A residence permit issued by the immigration authorities and confirmation from the commune that you have registered are not sufficient on their own. The most common indication that a person is actually resident in a place is that they are part of a shared household or have established a joint home with their spouse or partner and any minor children (e.g. where one or both spouses are employed locally, where their children attend a local school or nursery). Further evidence of actual residence includes documents showing that the previous residence abroad has been given up (confirmation from the local authority at the former place of residence that they are no longer resident there, customs documents confirming the transfer of household goods and/or vehicles to Switzerland and/or an invoice from a removal company, documents indicating the termination of employment abroad and the sale or letting of the previous home abroad). Additional indicators suggesting actual residence in Switzerland include, for example, being fully liable to pay tax in Switzerland; receipts, bank statements or credit card statements proving that everyday goods and services are being purchased in the region where the person is resident in Switzerland; a health insurance policy; the registration of a vehicle; or regular involvement in a club or association in Switzerland. Whether sufficient evidence has been provided is assessed on a case-by-case basis, taking account of all the circumstances.

11 Does owning property in Switzerland entitle foreign nationals to a residence permit?

No. Ownership of property in Switzerland does not give foreign nationals the right to a residence permit in Switzerland. Answers to questions regarding the granting of residence permits can be obtained from the State Secretariat for Migration (SEM) or the relevant cantonal immigration authorities.

[SEM](#)

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12 A French national resident in Switzerland, and therefore not subject to ANRA, purchases several apartment blocks as an investment. Years later, he moves back to his native France. Does he have to sell the apartment blocks before he leaves Switzerland?

By moving abroad, the French national becomes a foreign non-resident (Art. 5 para. 1 let. a no 1 ANRA). However, moving your place of residence abroad does not, as a general rule, mean that you are required to sell property lawfully acquired prior to departure (Art. 25 Annex I para. 1 AFMP Switzerland - EU/EFTA; SR 0.142.112.681).

For owners of a main home or cross-border commuters who own a second home and are moving abroad, see Questions 28 and 32.

B. Legal entities and companies without legal personality but capable to own property

13 When are legal entities or businesses capable of owning assets but without legal personality considered to be ‘foreign non-residents’?

Companies that have their registered office abroad are regarded as foreign non-residents (even if they are owned by Swiss nationals and are therefore, from an economic perspective, ‘Swiss businesses’, Art. 5 para. 1 let. b ANRA). Also regarded as foreign non-residents are legal entities (companies limited by shares, partnerships limited by shares, limited liability companies, cooperatives, associations, foundations) and businesses that have no legal personality but which are capable of owning assets (i.e. general and limited partnerships) which, although they are registered in Switzerland, are controlled by foreign non-residents in that the latter can exert a decisive influence over their administration or operational management (Art. 5 para. 1 let. c ANRA, Art. 6 para. 1 ANRA). Control by foreign non-residents is presumed in particular where such persons hold more than one-third of a company’s capital, hold more than one-third of the voting rights, or have granted significant loans to the company (Art. 6 ANRA).

14 A German national resident in Switzerland acquires shares in a company based in Switzerland. Years later, the shareholder returns to her home country. What are the implications of moving abroad for her and her shares, as well as for the company, from the perspective of ANRA?

By moving abroad, the German national becomes a foreign non-resident (Art. 5 para. 1 let. a no 1 ANRA). If she holds a controlling position in a limited company, the company and all its subsidiaries are also deemed to be foreign non-residents (Art. 5 para. 1 let. c in conjunction with Art. 6 ANRA). Any future acquisition of property by the company or its subsidiaries under Article 4 of ANRA will, in principle, be subject to authorisation. In this context, ‘acquisition’ includes the development or renovation of a property already held by the shareholder at the time she left Switzerland.

However, the fact that the shareholder has moved her place of residence abroad does not, in every case, mean that the company has to sell land lawfully acquired prior to the move, or that the shareholder must sell her shares. Nevertheless, an obligation to sell would arise if the company were to relocate its registered office abroad while retaining a right to a property that

cannot be acquired without authorisation under Article 2 paragraph 2 letter a ANRA (see Art. 4 para. 2 ANRA; see also Question 34).

15 Do the licensing authorities keep lists of legal entities that they recognise as not being ‘under foreign control’?

No. Whether a legal entity is considered to be foreign-controlled for the purposes of ANRA must be assessed on a case-by-case basis, taking account of the specific circumstances of each case. Lists drawn up by other authorities which, for reasons other than those relating to the Lex Koller, address the question of whether legal entities are foreign-controlled are not binding on the licensing authorities in terms of ANRA and may, at most, be taken into account as an indication (alongside other factors) when assessing whether a legal entity is ‘not foreign-controlled’. This applies, for example, to the list of ‘authorised banks and securities firms’ maintained by the Swiss Financial Market Supervisory Authority (FINMA), which classifies the listed institutions as ‘foreign’ or ‘non-foreign’.

C. Fiduciary arrangements

16 I am acting as an agent in the purchase of a property on behalf of a foreign non-resident. Is authorisation required?

Yes. Persons who acquire property on behalf of a foreign non-resident (a ‘fiduciary transaction’) are deemed to be foreign non-residents themselves and are therefore subject to ANRA (Art. 5 para. 1 let. d ANRA).

17 Can I transfer my property to a trust without needing authorisation?

The transfer of a property to a trust is generally subject to authorisation under ANRA if any of the trustees or beneficiaries is a foreign non-resident. According to the current case law, authorisation is not required where the trustees and beneficiaries are not foreign non-residents as defined in ANRA, and the trust deed does not permit the addition of further beneficiaries at a later date. It is also likely that no authorisation will be required if the beneficiary and the settlor are the same person, or if the beneficiaries do not acquire rights in the real estate property that are similar to those of an owner. The exemptions from the requirement for authorisation that are linked to a close (family) relationship with the settlor do not apply in the case of a transfer of real estate to a trust. According to the case law of the Federal Supreme Court, the exception under Article 7 letter b ANRA applies only to *direct* acquisition by natural persons (privileged family members). In the case of a transfer to a trust, the trust is interposed between the transferor (the settlor) and the transferees (the beneficiaries). The acquisition is therefore not made directly by a natural person and, accordingly, may not be granted preferential treatment (BGer 2C_437/2024 of 5 February 2026). By the same token, this restrictive interpretation must also apply to the transfer of real estate to a trust on death, as a trust is never a statutory heir under the Swiss law of succession. In addition, the transfer of the following properties to a trust is not permitted, as they may only be acquired directly by natural persons in their own names (Art. 8 ANRO): a main home (Art. 2 para. 2 let. b ANRA), a second home in the region where the person concerned works (Art. 7 let. j nos 1 and 2 ANRA), a second home in a place with which the person concerned has exceptionally close ties worthy of protection (Art. 9 para. 1 let. c ANRA), and a holiday home or accommodation unit in an aparthotel (Art. 9 para. 2 ANRA). This also applies where the acquisition of any of these homes just mentioned was approved on the grounds that the seller would otherwise face hardship (Art. 8 para. 3 ANRA).

III. Objective requirement for authorisation based on the type or intended use of the property

A. Principles

18 What types of property do foreign non-residents need authorisation for?

Under the basic rule set out in Article 2 paragraph 1 ANRA, foreign non-residents require authorisation to purchase a property regardless of its intended use. The law provides for exceptions to this general rule.

Foreign non-residents do not require authorisation to acquire the following properties:

- business premises and, in exceptional cases, residential properties which are acquired as part of business premises (Art. 2 para. 2 let. a and para. 3 ANRA; see Questions 20-23),
- a main home at their place of lawful and actual residence (Art. 2 para. 2 let. b ANRA; see Questions 24-28) as well as
- a second home, provided the foreign non-resident is a cross-border commuter who is a national of an EU or EFTA member state or – under certain conditions – a UK national (Art. 7 let. j nos 1 and 2 ANRA; see Questions 29-32).

Otherwise, the acquisition of property, especially residential property, by foreign non-residents is generally subject to authorisation. In particular, the acquisition of houses and apartments, as well as land intended for building houses or apartments (see also Question 19), is subject to authorisation. Unless there are grounds for authorisation (see Questions **Fehler! Verweisquelle konnte nicht gefunden werden.** ff.), foreign non-residents are not permitted to buy or otherwise acquire such properties.

19 What are the rules regarding undeveloped land in a building zone? As a foreign non-resident, do I need authorisation to make a purchase?

Generally speaking, yes. Normally, the acquisition of undeveloped land in residential, industrial or commercial zones is subject to authorisation, unless specific plans are submitted for the prompt development of the land by constructing a building that does not require authorisation (such as a main home or business premises) (see Question 23), or the land is otherwise going to be used as part of business premises (e.g. as a storage area, car park or access road) or it can be regarded as a permissible land reserve for a business premises site (see Question 23). The prolonged possession of land without using or developing it is generally regarded as an unlawful investment, even if the land is located in an industrial or commercial zone rather than a residential zone.

B. Land forming part of business premises (Art. 2 para. 2 let. a ANRA)

20 What basic requirements must be met for a foreign non-resident to purchase a site for business premises without authorisation?

The property must be permitted to be used for commercial purposes and must actually be used continuously for such purposes (i.e. it must be what is known in ANRA as a 'permanent business establishment', e.g. factory buildings, warehouses and storage areas, offices, shopping centres, shops, hotels, restaurants, workshops, and doctors' surgeries). Land which, for example, may not be used for commercial purposes due to spatial planning restrictions (e.g. open spaces or conservation areas, woodland, etc.) may not, as a general rule, be acquired (or co-acquired) without authorisation. Nor can it be acquired as a land reserve (see Question 23). According to the established case law, the (joint) acquisition of such land is only permitted if the land forms part of the business premises (e.g. a park serving as a recreational area for a hotel) or, in exceptional cases, where it is not possible or would be unreasonable to separate it from the part used for business purposes.

The construction or leasing of residential property is not regarded as a business activity that meets the requirements of Article 2 paragraph 2 letter a ANRA, nor is trading in residential property (Art. 3 ANRO). The acquisition of real estate by foreign non-residents for such purposes is subject to authorisation and is prohibited because there are no grounds for authorisation (exception: social housing; see the Question 66). Residential accommodation operated as a hotel, on the other hand, is regarded as a permanent business establishment and may, in principle, be acquired or built without requiring authorisation.

Incidentally, when acquiring a permanent business establishment, it is not only possible to purchase the property outright without requiring authorisation, but also to acquire other rights, such as a right to purchase, right of pre-emption or right of repurchase, and to obtain financing for buying the property and register a mortgage on it.

21 Does a foreign non-resident who acquires business premises have to run their own business there for the acquisition to be exempt from authorisation?

No. For the purposes of an exemption from the requirement for authorisation, it is irrelevant whether the property is used directly by the acquiring person's business or is leased to a third party for the purpose of carrying out a commercial activity. Premises may therefore also be acquired purely as an investment.

22 Does the requirement for authorisation change if the premises are used not only for commercial purposes but also for residential purposes?

Yes – in certain circumstances, this may mean that a foreign non-resident is not permitted to acquire the property, or that the residential portion of the property may not be included in the acquisition. Residential accommodation may only be acquired by foreign non-residents as (part of) a permanent business establishment without the need for authorisation in certain exceptional cases.

An acquisition of this kind is only permitted if the residential accommodation is essential (and not merely convenient) for operating the business on the property (e.g. for building management or technical professions where a constant or almost constant presence on or close to the business premises is essential; see Federal Supreme Court Decision 2A_103/2003 of 8 July 2003). Residential accommodation may also be acquired in this way if this is required in order to comply with residential quota regulations (Art. 2 para. 3 ANRA). According to the established case law, in exceptional cases, residential accommodation may also be acquired if it is impossible in practice to separate the accommodation from the business (for example, by selling off the accommodation as an apartment) or to do otherwise would be 'disproportionate' (e.g. to expect someone to live in a house situated in the middle of a factory complex, or in individual apartments in a factory or multi-storey industrial building, particularly where access is only possible via premises used for business purposes). If there is any doubt, a declaratory order must be obtained from the competent cantonal licensing authority confirming that the acquisition does not require authorisation. In considering whether to grant the order, the authority must assess whether separating apartments from the premises so they can be individually owned would be feasible and proportionate.

23 A foreign company wishes to acquire undeveloped land, or land that is largely undeveloped, for the purpose of establishing or expanding its permanent business establishment in Switzerland. Is an acquisition of this kind permitted?

When acquiring land for a permanent business establishment, suitable land reserves amounting to around one third of the total area of ground may be acquired for the purpose of expanding the business premises in the medium-term. In justified cases, it is possible, by way of exception, to acquire larger land reserves of up to half the total site area, provided that specific

plans for rapid development of the site are submitted. At the time of acquisition, therefore, around two-thirds of the total area must be built on, or construction and operation (of commercial premises such as factories, warehouses, offices, shopping centres, restaurants, workshops, or, depending on the activity, storage, parking or handling areas, or access roads) must be imminent. Around a third of the site area may remain undeveloped and unused for a longer period as a land reserve for expanding the premises in the medium-term. Vacant buildings that are no longer used for business activities should be treated in the same way as undeveloped land.

If the proportion of building land that remains undeveloped and unused exceeds one third, a decision must be obtained from the competent cantonal licensing authority. If, in exceptional cases, a land reserve exceeding the one-third limit is permitted, this must be subject to conditions that ensure that the reserve becomes used for business purposes promptly.

C. Main home

24 I live in Switzerland, but am considered a 'foreign non-resident'. Do I need permission to buy an apartment that my family and I will use as our main home?

If you are a foreign national but live in Switzerland, you may purchase a property (a house or an apartment) at your lawful and actual place of residence (your 'main home', Art. 2 para. 2 let. b ANRA, Art. 5 and Art. 18a para. 2 ANRO; for the definition of 'actual place of residence', see Question 10). You do not need authorisation for this. This also applies to building land if construction of a main home begins within about a year. As nationals of EU and EFTA member states who are resident in Switzerland are not considered foreign non-residents (see Question **Fehler! Verweisquelle konnte nicht gefunden werden.**) and therefore do not require authorisation to purchase land, the 'main home' exemption generally applies only to nationals of other foreign states who are resident in Switzerland (usually holding a B residence permit; or, in some cases, working at embassies, consulates or international organisations and holding an legitimisation card issued by the Federal Department of Foreign Affairs, or working for foreign railway, postal or customs administrations based in Switzerland and able to provide documentary proof of doing so). A foreign non-resident can only purchase or otherwise acquire a main home without requiring authorisation if they do so directly in their own name (Art. 8 ANRO, see Question 17). This means that the exemption for the acquisition of a main home does not cover the acquisition of a share in a housing cooperative as a prerequisite for renting a main home at the place of lawful and actual residence. As a rule, housing cooperatives are regarded as property companies under Article 4 paragraph 1 letter e ANRA, and their shares are not listed on a stock exchange in Switzerland. The purchase of a share in a housing cooperative is therefore subject to authorisation and is not permitted unless the conditions for authorisation are met.

25 I am planning to move from abroad to Switzerland and have already found a property. Do I have to wait until I am living in Switzerland before I am allowed to buy my 'main home'?

According to the case law of the Federal Supreme Court on this question (BGer 2C_876/2011 of 20 march 2012, E. 4.2), federal law will allow you as a person moving to Switzerland to buy your main home at your prospective place of lawful and actual residence before you move. However, this is subject to the condition that it is done *as part of the process of moving residence* to Switzerland and you can provide plausible evidence that this what you are planning to do. In such cases, the licensing authorities must verify whether you (and, if applicable, your family) are actually moving your place of residence to Switzerland. The authorities must impose the necessary conditions and monitor compliance with them.

26 How big can a 'main home' be?

As a general rule, a property acquired by a foreign non-resident must never be of a larger area than is necessary for its intended use (Art. 12 let. b ANRA). A main home must therefore not be so large that the acquisition of the property, or at least part of it, is regarded as a mere capital investment. Subject to this condition, however, a main home may, in principle, be of any size. However, it must always be a single residential unit. In theory, it is not permitted to buy an existing house with a granny flat as a main home. Exceptions are only possible if splitting off a second residential unit or dividing up a property that comprises more than one building would be impossible or unreasonable in the circumstances, and occupation by a single owner can be guaranteed (for example, by carrying out structural alterations).

As a rule of thumb, a land registrar will not record a transaction involving a property larger than 3,000m² directly in the Land Register, but will instead refer the purchaser to the licensing authority. The authority must then decide whether the acquisition is still considered exempt from authorisation or whether it should be rejected on the grounds that it is simply a financial investment.

27 Can I let my 'main home' to someone else?

No. If you are acquiring a property, you must live in the property yourself and may not rent it out, not even on an occasional basis. This ban on letting also applies to any parking spaces acquired with the main home..

28 I bought my 'main home' a while ago and would now like to move house. Do I now have to sell my 'main home'?

Not normally, no. If you have acquired a property and then change your place of residence (within Switzerland or abroad), there is generally no requirement to sell what used to be your main home. You are free to use your former home as you wish. You can use it as a second home or holiday home, or let it out to third parties. You can also buy a new main home at your new place of residence without having to sell the first one. However, a breach of the law occurs if a person never had any intention of living in a property themselves on a long-term basis, particularly if they regularly change their place of residence solely for the purpose of being able to purchase several houses or apartments without requiring authorisation. In the case of purchases like these, the authorities may decide retrospectively that authorisation is required (Art. 25 para. 1^{bis} ANRA) and order the unlawful situation to be rectified (Art. 27 ANRA).

D. Second homes for cross-border commuters

29 When can cross-border commuters buy a second home in Switzerland?

Nationals of an EU or EFTA Member State and, under certain circumstances, UK nationals (see Question 5), who work in Switzerland as cross-border commuters (i.e. persons holding an EU/EFTA cross-border commuter permit G, known in the EU/EFTA agreements as 'frontier workers'), are permitted to acquire a second home in the region where they work (Art. 25 para. 3 of Annex I to the AFMP [SR 0.142.112.681] and Art. 24 para. 3 of Annex K Appendix 1 to the EFTA Agreement [SR 0.632.31], Art. 7 let. j nos 1 and 2 ANRA, Art. 18a para. 3 ANRO). They do not need authorisation for this. The second home must make it easier for the cross-border commuter to work in Switzerland, for example by enabling them to reach their place of work in Switzerland more quickly. To be eligible for the exemption from authorisation, the cross-border commuter must acquire the second home themselves (Art. 8 ANRO). For information on the acquisition of second homes by foreign nationals who do not hold a cross-border commuter permit, please see the response to Question 62.

Cross-border commuters are subject to authorisation requirements if they wish to buy holiday homes, or make capital investments in or trade in residential properties or undeveloped land (Art. 25 para. 3 of Annex I to the AFMP and Art. 24 para. 3 of Annex K Appendix 1 to the EFTA Agreement).

30 What is the maximum size allowed for a cross-border commuter's second home?

As a general rule, a property acquired by foreign non-residents must never be larger than is necessary for its intended use (Art. 12 let. b ANRA). The second home must therefore not be so large that its acquisition, at least in part, must be regarded simply as a capital investment. This would contravene the AFMP and the EFTA Agreement, both of which provide that pure capital investments and trading in undeveloped land and residential properties be left subject to the authorisation requirement under ANRA and thus – given that the grounds for authorisation under ANRA are very limited – effectively prohibit these activities. Subject to this proviso, however, the second home may, in principle, be as large as the buyer wishes. However, this home must be a single residential unit (Art. 25 para. 3 of Annex I to the AFMP and para. 24 para. 3 of Annex K Appendix 1 to the EFTA Agreement).

As a rule of thumb, the land registrar will not register a transaction involving a property larger than 1,000m², but instead will refer the purchaser to the licensing authority (Art. 18a para. 3 let. c ANRO). The authority must then decide whether the acquisition is still considered exempt from authorisation or whether it should be rejected on the grounds that it is simply a financial investment.

31 As a cross-border commuter, am I allowed to let out my second home?

No. You must use the second home yourself for as long as you work in the region as a cross-border commuter. You are not allowed to rent your home to anyone else, not even a room in it. The same applies to parking spaces acquired with the second home.

32 I am a cross-border commuter and I have purchased a second home, but I am due to retire soon and will be giving up my job. Do I have to sell my flat now?

Not normally, no. Under the AFMP and the EFTA Agreement, you are under no obligation to dispose of property on leaving your host country (Art. 25 para. 3 of Annex I to the AFMP and Art. 24 para. 3 of Annex K Appendix 1 to the EFTA Agreement). If, as cross-border commuter, you stop working in Switzerland, you are generally not required to sell your second home. You are free to use your former home as you wish. However, a breach of the law occurs if you had no intention from the outset of using the property as a second home for the long term, particularly if the second home was not acquired for the purpose of making it easier to work in Switzerland, but solely because cross-border commuter status allowed you to buy a property without requiring authorisation. In the case of purchases like these, the authorities may decide retrospectively that authorisation is required (Art. 25 para. 1^{bis} ANRA) and order the unlawful situation to be rectified (Art. 27 ANRA).

33 I am a cross-border commuter. Am I allowed to purchase a plot of ground at my place of work in Switzerland as somewhere to park my car?

The purchase of property by cross-border commuters at their place of work for use as a parking space is subject to authorisation and will not be authorised unless there are valid grounds. The purchase of a parking space is only permitted in connection with the acquisition of a second home in the region where the person works in Switzerland, or in connection with the acquisition of a property used as a workplace.

IV. Objective requirement for authorisation according to the form of transaction

A. Principles and transactions requiring authorisation

34 In order to be recorded as the owner of a property in the land register, a foreign non-resident requires authorisation. What other transactions involving the acquisition of rights to land require authorisation?

For the purposes of ANRA, the term ‘acquisition of immovable property’ refers not only to a transfer of land ownership recorded in the land register in the usual legal sense, but also to any transaction that gives a foreign non-resident actual control in economic terms of a property in cases where authorisation is required. Article 4 ANRA and Article 1 ANRO provide examples of transactions requiring authorisation. Furthermore, a catch-all clause defines the acquisition of any rights that confer on the person acquiring the property a position akin to that of an owner as being subject to authorisation (see Art. 4 para. 1 let. g ANRA, Question 36).

35 What are some examples of transactions requiring authorisation?

The following transactions in particular are regarded as acquisitions of immovable property’ that generally require authorisation (this list is not exhaustive):

- the acquisition of ownership (sole, joint or co-ownership, including condominium ownership), a building right, a right of residence or a usufruct over a property (Art. 4 para. 1 let. a ANRA);
- participating in a business capable of owing assets but without legal personality (general partnerships and limited partnerships) the actual purpose of which is the acquisition of immovable property (Art. 4 para. 1 let. b ANRA);
- 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 (Art. 4 para. 1 let. c ANRA);

Consequently, the acquisition of shares in a fund that are regularly traded on the market outside the stock exchange is not subject to authorisation. The following are not considered to be real estate funds within the meaning ANRA: investment companies with variable capital (SICAVs), investment companies with fixed capital (SICAFs) and limited partnerships for collective investment schemes as defined in the Federal Act on Collective Capital Investment Schemes (CISA, SR 951.31);

- 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 (Art. 4 para. 1 let. c^{bis} ANRA);
- the acquisition of the ownership or usufruct of a share of an entity, (company or partnership limited by shares, limited liability company, cooperative), 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 or the immovable property in question may be acquired without authorisation under Article 2 paragraph 2 letter a ANRA (Art. 4 para. 1 let. e ANRA).

Consequently, the acquisition of even a single share in an unlisted residential property company is subject to authorisation under ANRA (see the Federal Council’s dispatch on an amendment to ANRA of 28 May 2003, BBI 2003 4357). This also applies to the acquisition of non-voting shares, and even where the company is only planning to acquire property in the foreseeable future, but the shares are acquired with a view to those property acquisitions (BGE 109 Ib 95, para. 4). Participating financially in the establishment of such property companies, and – where this strengthens the position of the person acquiring the property – in increasing the capital of such companies, is also subject to authorisation (Art. 1 para. 1 let. a ANRO);

- the acquisition of a property which is not covered by the exemption from authorisation under Article 2 paragraph 2 letter a ANRA, together with assets or a business (Art. 181 of the Swiss Code of Obligations (CO)) or through a merger, demerger, transformation or transfer of assets under the Merger Act, provided that this results in an increase in the rights to that property of the person acquiring the property (Art. 1 para. 1 let. b ANRO).
- the acquisition of shares in a company that owns a property which serves as the main, second or holiday home of the person acquiring the shares (Art. 1 para. 1 let. c ANRO). The company need not be a property company;
- the establishment and exercise of a right of purchase, pre-emption or repurchase in respect of immovable property or a share in terms of Article 4 paragraph 1 letters b, c and e ANRA (Art. 4 para. 1 let. f ANRO);
- the relocation of a company's registered office abroad, provided that it retains rights to immovable property (even if the shares in the company remain entirely in Swiss hands; Art. 4 para. 2 ANRA). The same applies where a company registered in Switzerland merges with a foreign company to form a newly established company based abroad, or is taken over by a company based abroad (emigration merger).

Using a property for a purpose other than that for which it was acquired is equivalent to acquiring it. The same grounds for granting or refusing authorisation apply to the change of use as to the other types of acquisition listed in Article 4 ANRA. A change of use that generally triggers the requirements to obtain authorisation occurs, for example, when a main home is let to a third party or is used solely as a holiday home, or when residential properties are built on land designated as business premises.

36 In terms of the catch-all clause, what further rights might place the person acquiring the property in a 'position similar to that of an owner'?

Under Article 4 paragraph 1 letter g ANRA, the acquisition of other rights which may confer on the person acquiring the property a status similar to that of the owner of a property is subject to authorisation. This catch-all clause is intended to prevent, in general terms, transactions designed to circumvent the law which, in economic terms, lead to the same result as or whose effect is similar to the acquisition of property rights. It is not necessary for the parties to deliberately try to circumvent the objectives of ANRA; what matters is not the parties' subjective intent, but solely the objective facts of the case – in other words, what can be achieved economically by what the parties have chosen to do. The ANRO sets out examples of commercial transactions that fall under this catch-all clause (the list is not exhaustive).

The following are therefore also subject to authorisation, for example:

- a long-term lease with unusual contractual provisions, such as a one-off payment of rent in advance, a waiver of the requirement of the landlord's consent for major structural alterations, or the linking of a lease to a loan from the tenant to the landlord whereby the rent is offset against the loan interest (Art. 1 para. 2 let. a ANRO);
- the financing of the purchase or development of land, if the person acquiring the property or the developer becomes especially dependent on the creditor as a result of unusual conditions, the amount of the loan or the financial circumstances of the debtor (Art. 1 para. 2 let. b ANRO). Therefore, when assessing whether authorisation is required, the entire project – i.e. the acquisition of land and the development – must always be considered as a whole (BGE 102 Ib 124, E. 4);
- establishing a ban on construction or similar restriction on ownership that applies to neighbouring land (Art. 1 para. 2 let. c ANRO);

- the transfer of a property to a trust which results in a foreign non-resident acquiring rights to the property similar to those of an owner (see Question 17).

37 Foreign non-residents may invest in a residential property company only if the shares are listed on a stock exchange in Switzerland. When is an entity considered a residential property company?

Under Article 4 paragraph 1 letter e ANRA, a company is deemed to be a (residential) property company if its *actual* purpose is to acquire or trade in immovable property (real estate), provided that the real estate is not property used for commercial purposes that may be acquired without authorisation under Article 2 paragraph 2 letter a ANRA.

The objects of the company as stated in its articles of incorporation serve merely as a starting point for deciding whether a company is a residential property company. What is more decisive is the ‘actual’ purpose of the company. If, from an economic perspective, residential property constitutes the bulk of a company’s business activities, it is classified as a residential property company (Federal Supreme Court 2C_1041/2016 of 28 September 2017, E. 3.3). If residential properties make up more than 20% of the company’s total assets, this can generally no longer be regarded as a secondary purpose (Dispatch of 28 May 2003 on the amendment to ANRA, BBI 2003 4357, 4361; Federal Council’s reply of 4 November 2011 to Question 09.1124 [Limited partnership for collective investment schemes]). However, when determining the company’s purpose, the circumstances as a whole must always be taken into account (Federal Supreme Court 2C_355/2009 of 19 November 2009, E. 5.1). If the only focus is on the company’s assets, this can sometimes lead to misleading results (e.g. in the case of a carpentry firm that also owns a residential property whose value accounts for more than 20% of its assets).

A residential property company which is not itself a foreign entity, but in which one or more foreign persons hold a minority stake, may itself acquire further real estate provided that it meets all the other requirements for acquisition. However, in such cases, the licensing authorities are required to verify whether the foreign non-residents holding shares in the company have acquired their shares lawfully. In the case of any acquisitions of company shares that are subject to authorisation, the authorities may decide retrospectively that authorisation is required and order that the unlawful situation be rectified (Art. 27 ANRA).

38 A company owns residential properties but does not itself qualify as ‘residential property company’. Is a foreign non-resident allowed to acquire all the shares in this company without authorisation?

The answer is yes, unless authorisation would be needed to purchase the residential properties directly. The same rules apply to the indirect purchase of residential property as to the direct purchase. Consequently, even the indirect acquisition of the residential properties by taking over a company (i.e. acquiring all its shares) is only exempt from the requirement for authorisation in exceptional cases (see in particular Art. 2 para. 2 ANRA).

B. Exceptions from the requirement for authorisation

39 Exceptions prove the rule: which forms of acquisition are exempt from the authorisation requirement?

There are various exceptions to the requirement for authorisation, which relate in particular to the intended use of the property (Art. 2 para. 2 lets a and b ANRA) or to the relationship that the person acquiring the property has with the seller or with the property (Art. 7 ANRA). In addition, the Federal Council may exempt acquisitions from the requirement for authorisation

where this is in the national interest. The exceptions to the requirement for authorisation are set out exhaustively in Article 2 paragraphs 2 and 3 ANRA and in Article 7 ANRA.

40 What relationships between the parties constitute grounds for an exemption from the requirement for authorisation?

As a general rule, *statutory heirs under Swiss law* are exempt from the requirement for authorisation if they inherit a property (as joint owners or in the course of the division of the estate) (Art. 7 let. a ANRA). This includes not only the heirs who might normally be expected to inherit under the rules of intestate succession (i.e. children and a spouse or registered partner), but also heirs and legatees named in a will who, as relatives of the testator, even if only potentially, i.e. in the event of all closer relatives predeceasing them, could be considered as statutory heirs, e.g. nieces or nephews. However, this exception does not apply to an acquisition that constitutes an advance on an inheritance.

'Ascendants or descendants in direct line' (e.g. parents, grandparents and children) and spouses and registered partners, are also generally exempt from the requirement for authorisation (Art. 7 let. b ANRA). However, transfers between relatives in the same line of kinship, such as between siblings, are not exempt from the requirement for authorisation. It would therefore be considered an abuse of the law for a child to sell a property to their parents and then for the parents resell it to another child shortly afterwards; these sales would be subject to authorisation, even though each transaction, considered in isolation, would not require authorisation. Indeed, the initial transfer could constitute a circumvention of the law, particularly if the child acquires the property only a short time before selling it to their parents.

41 What exceptions to the requirement for authorisation apply based on the relationship of the person acquiring the property to the property?

Acquirers who are already the *co-owner or joint owner* of a property are exempt from the requirement to obtain authorisation (Art. 7 let. c ANRA).

Owners of condominium units, on the other hand, require authorisation to purchase a further condominium unit, as condominium is a specific form of co-ownership. However, *owners of condominium units* are exempt from the requirement to obtain authorisation *when exchanging their units within the same building* or within the same development (Art. 7 let. d ANRA). In such cases, a smaller apartment may be exchanged for a slightly larger one, subject to payment of the difference in price, provided that the permitted floor area is not exceeded (Art. 10 paras 2 and 5 ANRO).

In addition, persons who acquire a property *as compensation in kind* following an expropriation, land redistribution or land consolidation procedure under federal or cantonal law are not subject to the authorisation requirement (Art. 7 let. e ANRA). Nor is authorisation required by persons who acquire a property as a replacement for another property that they have sold to a public corporation or institution (Art. 7 let. f ANRA).

Furthermore, persons who acquire a *small area of land* in addition to the property they already own are not required to obtain authorisation (Art. 7 let. g ANRA). This includes minor extensions to an area of land to provide a parking space, an access path or a patio area, for example, or the acquisition of living space, a storage room or a parking space in a garage, which results in a slight increase in the co-owned share. In the case of the acquisition of second homes in terms of Article 9 paragraph 1 letter c ANRA, or of holiday homes and accommodation units in aparthotels, any subsequent additional acquisition may only be made within the limits of the permitted area in each case (Art. 10 para. 4 ANRO). If an exchange of apartments or a boundary adjustment results in the permitted area being exceeded, the exception set out in Article 7 letter d or g ANRA does not apply. In such cases, the land registrar will refer the person acquiring the property to the licensing authority (Art. 10 para. 5 ANRO).

Natural persons who acquire a home as a result of the *liquidation of a legal entity established before 1 February 1974*, the actual purpose of which was the acquisition of real estate, are also exempt from the requirement to obtain authorisation, provided that they acquired shares in the legal entity to the relevant extent in accordance with the regulations in force at the time (Art. 7 let. i ANRA).

42 Under what circumstances may the Federal Council, in exceptional cases, exempt acquisitions from the requirement for authorisation?

A distinctive feature of ANRA is that it grants the Federal Council the power to exempt the acquisition of a property from the requirement for authorisation in individual cases, provided that the specific acquisition is in Switzerland's national interest. The area of the property must not exceed what is necessary for its intended use (Art. 7 let. h ANRA). Only important and overriding public interests of national significance that are likely to safeguard or promote the country's political, economic, scientific, social or cultural interests may be regarded as the federal national policy interests (Administrative Practice of Federal Authorities APFA 68.12, para. 3).

In specific cases, the Federal Council has used Article 7 letter h ANRA to exempt the acquisition of real estate by international sports organisations from the authorisation requirement. This was primarily because of the significant sporting, cultural and economic importance of globally active associations being based in Switzerland (see APFA 68.12). The Federal Council has also taken the view that developing a holiday resort (Andermatt) can be in the national interest. The Federal Council's decision in such cases is final; there is no right of appeal against it.

43 Are there any other exceptions to the requirement for authorisation?

Yes. These are related to Switzerland's international relations.

For example, nationals of an EU or EFTA Member State and, under certain circumstances, United Kingdom nationals who work in Switzerland as *cross-border commuters* (holding an EU/EFTA cross-border commuter permit G) are not subject to the authorisation requirement for the acquisition of a *second home* in the region where they work (Art. 7 let. j nos 1 and 2 ANRA, Art. 18a para. 3 ANRO; see 29 ff.).

Furthermore, under Article 7a ANRA in conjunction with Articles 16 and 17 of the Host State Act (SR 192.12), *foreign states, international organisations and other beneficiaries* under this Act who acquire *property for official purposes* are exempt from the requirement to obtain authorisation.

V. Authorisation

A. Principle

44 Grounds for authorisation at federal level

The acquisition of real estate for which prior authorisation is required may be authorised only on grounds provided for in ANRA and, as appropriate, in cantonal legislation (Arts 3, 8 and 9 ANRA).

ANRA provides grounds for exemption for acquisitions by banks and insurance companies, for occupational pension schemes for Swiss businesses and for charitable purposes, for heirs or legatees under wills, and in certain cases of hardship (Art. 8 ANRA; see FAQs at 47-51).

Cantonal law may provide grounds for granting authorisation to foreign non-residents for the acquisition of holiday homes and accommodation units in aparthotels, second homes and

rental properties with affordable, low rents (social housing) (Art. 9 ANRA; see questions at 52-67).

45 Are there any conditions attached to the authorisation?

Yes – authorisation is granted subject to conditions and requirements designed to ensure that the property is used for the purpose claimed by the person acquiring the property (Art. 14 ANRA, Art. 11 ANRO).

46 How long is authorisation valid for?

Authorisation lapses if the acquisition of the property is not completed within three years. In exceptional cases and for good cause, the licensing authority may extend this deadline if the person making the acquisition requests this before the deadline expires (Art. 12 para. 1 and 2 ANRO).

B. Grounds for authorisation at federal level

47 Under what circumstances will banks and insurance companies requiring authorisation be granted authorisation to purchase property in Switzerland?

A bank or insurance company subject to authorisation that is licensed to conduct business in Switzerland will be granted authorisation if the property is mortgaged in its favour and the acquisition takes place as part of a forced sale or a liquidation settlement (Art. 8 para. 1 let. d ANRA).

Furthermore, under certain conditions, a foreign insurance company licensed to conduct business in Switzerland may be authorised to acquire property for its domestic business (Art. 8 para. 1 let. b ANRA). The maximum value of Swiss real estate acquired under this authorisation criterion is determined by the provisions for Swiss business deemed technically necessary by the insurance supervisory authority.

48 Are pension funds subject to authorisation, and when are they entitled to authorisation when purchasing property?

Foundations exempt from direct federal tax which are subject to the Federal Act on Occupational Old-Age, Survivors' and Invalidity Pension Provision (OPA) are entitled to authorisation to acquire real estate if the property is to be used as an investment that enables domestic undertakings to provide pensions to personnel employed in Switzerland (Art. 8 para. 1 let. c ANRA).

Whether such institutions may acquire land without requiring authorisation must be assessed on a case-by-case basis. According to the established practice, they are not, in principle, subject to authorisation simply because the founding company is a foreign-controlled company.

49 What conditions must I meet, as a foreign national, to be allowed to purchase real estate for charitable purposes?

A foreign non-resident is allowed to acquire a property for charitable purposes if they can demonstrate that the property directly and exclusively serves charitable purposes and the person acquiring the property is exempt from direct federal tax in respect of the property (Art. 8 para. 1 let. c ANRA). Confirmation from the tax authority stating that the property to be purchased is exempt from tax must be included in the application for authorisation.

The property to be acquired must be used exclusively for charitable purposes, such as cultural or educational purposes, or for the support of 'the poor, the sick, the elderly or the disabled' (BBI 1972 II 1241, 1259): the property could, for example, be a cultural centre, a place

of worship or the premises of an institution used for meetings of its members, or for providing counselling, care or training, etc. The purchase cannot be authorised if the property only serves charitable purposes indirectly; for example, it is not sufficient if the proceeds from the rental of residential property are used for charitable purposes.

50 I am a foreign non-resident who is a beneficiary under the terms of a will. The estate includes a property in Switzerland. I am not a statutory heir. What is legal position here?

If you are a foreign non-resident who has inherited or been bequeathed real estate in Switzerland, but you are not a statutory heir under Swiss law (see Question 40) and you cannot or do not wish to rely on any other grounds for authorisation, you will still be granted authorisation for the acquisition in accordance with Article 8 paragraph 2 ANRA. Authorisation will be subject to the condition that the property is sold again within two years (calculated from the date on which authorisation takes legal effect, provided the application was submitted within the deadline) (BGE 103 Ib 178, para. 1; BGE 2C_484/2018 of 19 August 2019). This condition is mandatory and must be still be imposed even if the resale of the property is imminent.

However, if you can demonstrate a close tie to the property at the time of inheritance that is worthy of protection, authorisation may be granted without the requirement to resell. Ties of this kind arise, for example, where you have lived with the testator in the house bequeathed to you for a prolonged period, either continuously or at very regular intervals; or you have spent holidays there regularly with the testator for many years; or you have lived there as a tenant for many years (see BBI 2003 4357, 4367).

Heirs and legatees must apply for authorisation immediately after the will takes effect (i.e. after the deadline for renouncing the inheritance has expired) (Art. 17 para.1 ANRA; BBI 1981 III 585, 625). Persons requiring authorisation should not be able to derive benefit from inherited property over a longer period, other than in the two-year period allowed to resell the property (e.g. by generating rental income, making their own use of the property, etc.). If heirs who are required to obtain authorisation fail to do so, this renders the acquisition null and void (see Art. 26 paras 1 and 2 let. a ANRA in conjunction with Art. 17 para. 1 ANRA). Failure to obtain authorisation within the prescribed time limit is a criminal offence (Art. 28 ANRA).

51 When is a hardship exemption granted under Article 8 paragraph 3 ANRA?

A foreign non-resident subject to authorisation may be granted authorisation to purchase a holiday home or a residential unit in an aparthotel in a current or former tourist resort even if authorisation would not normally be granted due to a cantonal or communal moratorium on authorisations or the removal of the location from the cantonal list of tourist resorts, if to do otherwise would cause the vendor of the property hardship and where the following conditions in particular are met (Art. 8 para. 3 ANRA, Art. 4 ANRO).

It is the vendor in person who must potentially suffer the hardship. They must be experiencing a financial emergency that was unforeseeable and cannot be resolved without selling the property. Furthermore, the vendor must demonstrate that every effort has been made to sell or possibly to lease the property to persons who do not require authorisation on reasonable terms (cost price plus a reasonable profit, provided the property has been owned by the vendor for more than three years) (Art. 4 para. 1 ANRO, BBI 1981 III 585, 625). In doing so, any speculation must be avoided and the sale price must be in line with current prices on the Swiss property market (BGE 111 Ib 176 E. 3). The house or apartment must have been used by the vendor as their primary residence.

C. Cantonal grounds for authorisation

Holiday apartments and accommodation units in an aparthotel

52 What are the basic requirements for obtaining authorisation to purchase a holiday home or an accommodation unit in an aparthotel?

The purchase of a holiday home or an accommodation unit in an aparthotel can only be authorised if the canton has introduced the relevant grounds for authorisation in its cantonal legislation and the property is located in a tourist resort designated by the canton (Art. 9 para. 2 and 3 and Art. 10 ANRA; see Question 53). The cantons and tourist communes may also impose various restrictions when introducing their grounds for authorisation. For example, they may decide to impose a total ban on authorisation for particular towns or districts; allow purchases only as part of a condominium and only up to a certain maximum percentage of the total available living space; limit the number of authorisations per year; or only permit the purchase of houses or apartments that are already owned by foreign non-residents (Art. 13 ANRA). The cantonal or communal requirements for the acquisition of holiday homes and accommodation units in aparthotels can be found in the cantonal implementing provisions for ANRA or obtained from the cantonal licensing authority where the property is located.

In addition, restrictions under federal law relating to property size (plot area and net living space; see Question 52) must be complied with, and, as a general rule, each person and their family may only purchase one residential unit (ban on owning multiple properties; see Question 58).

Furthermore, the authorisation must count towards the quota for holiday homes and accommodation units in aparthotels allocated by the Confederation to the canton concerned (Art. 11 ANRA, Art. 9 ANRO and Annex 1 ANRO). If the vendor themselves had also obtained authorisation for the original purchase of the house or apartment, the sale does not count towards the quota. Quota units may also be allocated to persons not subject to the ANRA who plan to sell houses or apartments to foreign non-residents (known in German as 'Grundsatzbewilligungen' (authorisations in principle)); whilst individual purchases made subsequently by foreign non-residents still require a separate authorisation, they are no longer counted towards the quota.

53 In which cantons can people living abroad purchase a holiday home or an accommodation unit in an aparthotel?

The following cantons currently recognise grounds for authorising the acquisition of holiday homes and/or accommodation units in aparthotels:

Appenzell Ausserrhoden (holiday homes only)
Bern
Fribourg
Glarus
Graubünden
Jura
Lucerne
Neuchâtel
Nidwalden (holiday homes only)
Obwalden
St Gallen
Schaffhausen (only for accommodation units in aparthotels)
Schwyz
Ticino
Uri
Vaud
Valais

54 I've heard that holiday homes can't be more than a certain size. If that's true: what restrictions on size apply?

The net living area of holiday flats and accommodation units in aparthotels must not, as a general rule, exceed 200m² (for more information on net floor area, see Question 54). In addition, in the case of holiday homes that are not in an apartment block, the total area of the property must not, as a rule, exceed 1,000m² (Art. 10 paras 2 and 3 ANRO). In practice, where it can be shown that additional space is required, a net living area of up to a maximum of 250m² (on the need for additional living space, see Question 57) and an area of land of up to 1,500 m² will be approved. Authorisation to purchase even larger areas of land may only be granted where there are compelling objective grounds for an exception to be made.

55 What is the 'net living area'?

The net living area includes all habitable rooms, and in particular (this list is not exhaustive):

- living rooms, bedrooms and studies, kitchens (including kitchen units, appliances and cupboards), bathrooms (including wet zones and toilets), dressing rooms and fitted wardrobes;
- areas that connect rooms forming part of the net living area, such as hallways, entrance areas, corridors, vestibules, lifts, internal staircases, privately used stairwells and door thresholds;
- recreational areas, such as an enclosed (or lockable) swimming pool, sauna, steam room, fitness room and relaxation room (BGE 136 II 233);
- verandas, greenhouses, conservatories or similar structures that are enclosed or can be locked;
- leisure spaces, such as hobby rooms, workshops, TV or cinema rooms, or 'carnotzets'; depending on the location and facilities, they may also include a wine cellar;
- all areas designated for fireplaces or wood- or gas- (ethanol-)fired stoves in rooms forming part of the net living area (in particular in living rooms, hallways, etc.);
- in general, any room that can be heated and has sufficient natural or artificial lighting; this includes rooms in the basement, regardless of whether they have a window or not, provided they are furnished as living quarters or can be furnished relatively easily.

The following do not generally count towards the net living area:

- open balconies, terraces and loggias;
- areas which serve solely to connect spaces that do not form part of the net living area;
- the entrance and stairwell in an apartment block, provided that they are located outside the individual accommodation units and are not designed or furnished in such a way that they can be used jointly by the residents as a reception area, cloakroom, lounge or similar;
- cellars without heating or insulation, which have little or no light, no special wall or floor coverings, and are used exclusively for storing a limited number of goods or items;
- wine cellars with a floor area no larger than is required to store a limited number of bottles;
- utility rooms with no more space than required to accommodate a washing machine and a tumble dryer, no more than two sinks, and sufficient space to hang up washing;
- rooms for the house's heating system, the oil tank, and for storing wood (pellets) or charcoal, and other rooms containing technical equipment, including those used for swimming pool maintenance;
- attics or lofts with no windows, only minimal insulation and hardly any furnishings, and which are therefore unsuitable as living space or as a walk-in wardrobe;
- garages for up to three vehicles per home, a bicycle storage room with space for up to two bicycles per person, or storage rooms for pushchairs, skis or other sports equipment, provided these are not heated or furnished.

Where spaces that are included in the net living area are shared by several co-owners, the relevant areas are allocated to the various homes on a pro rata basis (according to the number of dwellings or in proportion to the share of the property in condominium or joint ownership). No other arbitrary division of these areas is permitted.

56 Should areas under a sloping ceiling be included in the net living area?

Areas under a sloping ceiling are also included in the net living area if they can be used as living space, i.e. if, for example, they can be furnished, can be used for standing or sitting, or if everyday items (such as decorative objects or lamps) can be placed there. These areas must, as a general rule, be included in full when calculating the net living area. Whether areas under a sloping ceiling may, in exceptional cases, be excluded from the calculation of net living space must be assessed on a case-by-case basis. According to a practice that is applied by some cantons and is generally considered reasonable, where the ceiling height is less than 1.5 metres, only half of the area beneath the sloping ceiling is included in the net living area.

57 In what circumstances will it be accepted that there is a need for a larger net living area?

The person acquiring the property must provide plausible evidence of their additional requirements, i.e. of their need in future to share the home at the same time with family members (including close friends and, where applicable, domestic staff). Simply claiming that you intend to use the holiday home in future with your family and other people does not satisfy the requirement to provide evidence of additional need. The decisive factors are always the circumstances and needs at the time of acquisition (Federal Supreme Court 2C_947/2018, para. 3.5.3). An additional need is regarded as not sufficiently demonstrated if fewer than five people are expected regularly spend their holidays together in the property.

The following information and documents must be provided, as a minimum, in order to substantiate the future shared use of the holiday home:

a copy of passports and current addresses of the persons who will regularly be spending holidays in the property with the person acquiring the property. This information allows the authority to rule out the possibility that any of these persons already owns a holiday home in the vicinity of the property. Their presence would not justify any additional need for space;

a signed declaration stating the intention to share the holiday home in future;

information regarding the relationship with the person acquiring the property;

information about holidays spent with the person acquiring the property in the past.

It is important that the layout of the holiday home is suitable to meet the additional needs claimed. For example, an apartment cannot be used by several people at the same time if it does not have enough bedrooms.

58 How many holiday homes can a foreign non-resident purchase?

In principle, any individual who is a foreign non-resident is permitted to acquire one holiday home. However, a family is only allowed to acquire one holiday home. As a result, if a person acquiring a holiday home or a residential unit in an aparthotel, or their spouse, registered partner or child under the age of 18 already owns a property of this type or a second home in Switzerland, authorisation may only be granted on condition that the property already held is sold before the new purchase is registered (Art. 12 let. d ANRA in conjunction with Art. 11 para. 1 ANRO).

59 I am a foreign non-resident and would like to purchase a holiday home through my company, which is based in Switzerland. Is this allowed?

No. Holiday homes and accommodation units in aparthotels may only be purchased by private individuals directly in their own name. An indirect acquisition via a legal entity is not permitted (Art. 8 ANRO).

60 Is it permitted to let the holiday home to third parties?

Yes – subject to certain conditions. Holiday homes may not be let on a year-round basis, in order to prevent unlawful capital investments. However, to prevent holiday home complexes from standing empty for months on end, they may be let on a short-term basis (Art. 11 para. 2 let. f ANRO). The person acquiring the property must be able to use the holiday home themselves at any time for the stated purpose, which rules out long-term letting to a single tenant.

61 Do the accommodation units in aparthotels have to be handed over to the hotel proprietor to be managed according to hotel standards?

Yes – accommodation units in aparthotels must be made available to the hotel proprietor for management according to hotel standards, particularly during the peak season (Art. 10 let. b ANRA). As this obligation is property-specific, it also applies to persons not subject to authorisation (e.g. Swiss nationals) if they purchase an accommodation unit subject to this requirement (Art. 7 ANRO).

Second homes

62 What are the basic requirements for obtaining authorisation to purchase a second home?

Firstly, the canton in which the property is situated must have included the relevant grounds for authorisation (acquisition of a second home under Art. 9 para. 1 let. c ANRA) in its implementing provisions for ANRA. Foreign non-residents may then be granted permission to purchase a second home in a location with which they have exceptionally close ties that are worthy of protection (Art. 9 para. 1 let. c ANRA). This means regular contacts which the person acquiring the property must maintain in order to safeguard overriding economic, scientific or cultural interests. Family ties or in-law relationships with persons in Switzerland, as well as stays for holidays, spa treatments, courses of study or other temporary purposes, do not constitute close ties worthy of protection (Art. 6 ANRO).

Like holiday homes, second homes may only be purchased by private individuals directly in their own name and not through a legal entity (Art. 8 ANRO). The rules on the ground area and net living space that apply to second homes are the same as those for holiday homes (see Question 52 ff.). If the person acquiring the property, their spouse, registered partner or a child under the age of 18 already owns a second or holiday home or a residential unit in an aparthotel in Switzerland, authorisation may only be granted on condition that this property is sold prior to the registration of the new acquisition (Art. 12 let. d ANRA in conjunction with Art. 11 para. 1 ANRO).

63 Which cantons grant authorisation for a second home in a location with which the applicant has exceptionally close ties that are worthy of protection?

The following cantons currently recognise this ground for authorisation:

- Appenzell Ausserrhoden
- Basel-Stadt
- Fribourg

- Graubünden
- Jura
- Lucerne
- Neuchâtel
- St Gallen
- Solothurn
- Ticino
- Uri
- Vaud
- Valais
- Zurich

64 I have been granted authorisation to purchase a second home in terms of Article 9 paragraph 1 letter c ANRA. Am I free to do whatever I want with the property?

No. You are not allowed to rent your second home to anyone and you will have to sell it within two years if you are no longer using it for its intended purpose.

65 Do nationals of an EU or EFTA member state who hold a cross-border commuter permit also require authorisation to purchase a second home?

No. Provided that the second home is located close to where the person works in Switzerland, nationals of an EU or EFTA member state or – under certain circumstances – nationals of the United Kingdom who work in Switzerland as cross-border commuters (i.e. who hold an EU/EFTA cross-border commuter permit G) do not require authorisation to purchase a second home (see Question 29).

Social housing

66 Which cantons recognise a need for social housing as a valid ground for granting authorisation, and under what circumstances will authorisation be granted?

The following cantons recognise this ground for authorisation:

- Fribourg
- Geneva
- Graubünden
- Jura
- Neuchâtel
- Ticino
- Vaud
- Valais

A foreign non-resident may be granted authorisation to purchase land in order to construct social housing, i.e. rental properties with low rents, or rents that are affordable in comparison with similar properties in the same location, or to purchase such newly constructed residential buildings, provided that the locality is experiencing a housing shortage (Art. 9 para. 1 let. a ANRA).

67 Are there any other grounds for authorisation that the cantons can introduce?

No. The grounds for granting authorisation which the cantons may introduce are exhaustively listed in Article 9 ANRA. Other than the grounds for authorisation mentioned above (social

housing, second homes, holiday homes or accommodation units in apart-hotels), there are no further grounds for authorisation that the cantons may introduce.

VI. Procedure

A. Procedure to determine whether authorisation is required and/or for granting authorisation

68 Who decides whether to authorise an acquisition?

Enforcing the rules laid down in ANRA is primarily a matter for the canton in which the property is situated (Art. 15 ANRA). Unless the relevant land register office can immediately rule out any need for authorisation, having made a preliminary assessment, it will refer the person acquiring the property to the cantonal authority (Art. 18 para. 1 ANRA; see Question 68). The cantonal authority then decides whether the acquisition in question is permitted under the relevant legislation. If it decides that the acquisition should be permitted, i.e. if authorisation for the acquisition is granted, it is primarily the responsibility of the cantonal authority with the right of appeal, and secondarily that of the Federal Office of Justice (FOJ), to decide whether an appeal should be filed against the decision of the cantonal licensing authority.

ANRA also gives the Federal Council the special power to exempt the acquisition of a property from requiring authorisation in specific cases where the acquisition is in Switzerland's national interest of (Art. 7 let. h ANRA; see Question 42).

69 Which local authority is responsible for deciding whether authorisation is required and for granting authorisation?

Generally speaking, the cantonal authority in the place where the property is situated is responsible for deciding whether authorisation is required and also for granting that authorisation. Where shares in legal entities are acquired, the competent authority is that within whose jurisdiction the largest proportion, in terms of value, of the properties owned by those entities is situated (Art. 2 para. 1 and Art. 15 para. 1 let. a and para. 2 ANRA).

The cantonal licensing authorities and the authorities entitled to appeal are designated by the cantons. The contact details for these authorities are as follows:

[Contact details for the cantonal authorities](#)

70 When must an application be submitted for authorisation to purchase land or for a declaration that authorisation is not required?

A decision is required if the person acquiring the property cannot readily rule out that the transaction is subject to authorisation (Art. 17 para. 1 ANRA, Art. 15 para. 1 ANRO). Where a transaction requires authorisation, the acquisition cannot be recorded in the land register and an acquisition that does not require registration (e.g. a transfer of shares) cannot be effected without legally binding authorisation.

In addition, authorisation is required if there has been a change in circumstances that makes authorisation necessary when that previously was not the case (see Art. 14 para. 5 ANRA and, regarding changes in use subject to authorisation, Question 34). Furthermore, if circumstances change, it is the responsibility of the person acquiring the property (i.e. the person subject to the obligation) to have existing conditions revoked or amended.

The decision issued by the licensing authority always relates to the acquisition of a specific property (see No 3 of Annex 2 ANRO, which stipulates that details of the property must be included in decisions issued pursuant to ANRA; see BGE of 12 October 2011, 2C_423/2011, E. 1.2.1). Unless a specific transaction is being carried out, the applicant will generally be unable

to demonstrate a legitimate interest in the matter. If a person buys and sells several properties in quick succession, the land register office must normally assess each individual case as to whether the requirement for authorisation can be waived or whether the matter must be referred to the licensing authority. In particular, each individual acquisition must be reviewed to determine whether circumstances have changed and whether the financing triggers a requirement for authorisation.

71 In which cases will the land register or commercial register office or the auction authority refer the person acquiring the property to the licensing authority?

Where a transaction involves the acquisition of a property that is subject to authorisation and no exception applies, the transaction may only be completed, and, for example, recorded in the land register, if legally binding authorisation has been granted.

If the land register or commercial register office or the auction authority cannot immediately rule out the need for authorisation, they are required to refer the person acquiring the property to the licensing authority. The person acquiring the property then has 30 days (or 10 days in the event of an auction) to apply for a declaration that no authorisation is required or for authorisation to be granted (Art. 18 and 19 of ANRA, Art. 15 para. 3 let. a ANRO). Referral to the licensing authority is not a decision that can be challenged in its own right.

The guidelines on ANRA issued by the Federal Office of Justice (FOJ) assist land register offices in deciding whether to refer a case to the licensing authority or simply to register a transaction:

[Wegleitung des BJ für die Grundbuchämter zum Bundesgesetz über den Erwerb von Grundstücken durch Personen im Ausland \(not available in English\)](#)

72 My notary will certify in a public deed that I am not a foreign non-resident. Can the land register office still refer me to the licensing authority?

Even if you provide a notarial certificate stating that you are not a foreign non-resident, this does not necessarily mean that the land register office will not refer your case to the competent licensing authority. Whether or not someone is a foreign non-resident is a legal question that can only be decided by the licensing authority or the land register office if registration is applied for

Public deeds are only admissible as evidence of the facts they attest to, e.g. that the person acquiring the property is a German citizen and holds a valid C residence permit in Switzerland, or that all the shareholders of an acquiring company hold Swiss citizenship. The assessment of a notary or other lawyer, for example that the person acquiring the property has their actual place of residence in Switzerland or that the acquiring company is not controlled by foreign non-residents, has no probative value. It is simply a legal opinion provided by a person who has no authority to decide the matter, and therefore cannot be used as evidence (Art. 18 para. 3 ANRO).

Furthermore, public deeds prove the facts they attest to only if the person certifying the deed certifies that they have ascertained the facts through their own observation, and if there is no suggestion that the facts are incorrect (Art. 18 para. 2 ANRO).

73 Does the licensing authority only assess the need for authorisation if the person acquiring the property requests it to do so?

No. The licensing authority also assesses whether authorisation is required if a cantonal authority entitled to appeal, the Federal Office of Justice (FOJ), a civil court, a criminal court or another authority so requests (Art. 15 para. 3 lets b and c ANRO), and, in certain circumstances, may also do so *ex officio* if it finds that provisions of ANRA have been breached.

74 Can I appeal against a decision by the licensing authority, and who else is entitled to appeal?

The parties to the contract (the person purchasing the property and the vendor) and other persons who have a legitimate interest in the annulment or amendment of a decision by the cantonal licensing authority of first instance may challenge that decision before the cantonal appeal courts and can also appeal to the Federal Supreme Court against the final cantonal decision.

The cantonal authority that has a right of appeal, the Federal Office of Justice (FOJ) and the commune in which the property is situated have the same rights (Art. 20 and 21 ANRA). However, communes may only file an appeal against certain types of decisions (authorisation; a declaration that the purchaser does not require authorisation; revocation of a condition) (Art. 20 para. 2 let. c ANRO).

75 How long do you have to decide whether to appeal?

The time limit for filing an appeal is 30 days from the date on which the decision is served on the parties or on the authority with a right of appeal. For the Federal Office of Justice (FOJ), which has a subsidiary right of appeal, the time limit does not begin to run until it has been notified of the decision by the cantonal authority with the right of appeal.

Cantonal procedural law does not apply if it does not comply with the minimum procedural requirements set out in Article 20 ANRA and, for example, provides that an appeal must be filed within less than 30 days (BBl 1972 II 1241, 1261). However, cantonal procedural law that is more generous in its requirements than federal law (e.g. the suspension of time limits during court recesses) does apply (BGer 2C_748/2017, para. 4.4).

76 When does a decision by the cantonal licensing authority become final?

Decisions only become final once the cantonal authority with a right of appeal, the Federal Office of Justice (FOJ) and the commune in which the property is situated have each waived their right to appeal in writing, or once the 30-day appeal period has expired without an appeal being filed by any party (for information on rights of appeal, see Question 74).

77 Why does the federal government review the decisions of the cantonal authorities?

If the cantonal authority with a right of appeal decides not to pursue an appeal (and thus agrees with the decision of the cantonal licensing authority), the case file is forwarded to the Federal Office of Justice (FOJ) (Art. 17 para. 3 ANRA). The FOJ thus receives files that have already been checked for ANRA compliance by two cantonal authorities. The FOJ examines whether the decision of the licensing authority complies with federal law or whether an appeal should be filed against it. In this way, the FOJ also ensures that ANRA is enforced in a consistent manner throughout Switzerland.

B. Administrative, civil and criminal consequences of breaches of ANRA

78 A transaction requiring authorisation is carried out without authorisation. What are the implications under civil and administrative law?

Where a transaction involves an acquisition of land that is subject to authorisation and no exception applies, it may only be completed and recorded in the land register if the person acquiring the property has first been granted authorisation. The same applies to a transaction that is not recorded in the land register but which requires authorisation, such as the transfer

of shares in a property company. A transaction requiring authorisation is not valid until authorisation has been granted and is legally binding (Art. 26 ANRA). The contracting parties are, however, legally bound to carry out the contract. The transaction becomes void if authorisation is refused or revoked, the registrar refuses to record the transaction in the land register or commercial register, or the auction authority rescinds its acceptance of a successful bid. The transaction is also void if the person acquiring the property carries it out (e.g. by transferring shares in a property company) without applying for authorisation or before the authorisation has become legally binding (Art. 26 para. 2 ANRA).

Invalidity and nullity take effect *ex officio* (i.e. no one needs to request the authority to declare the transaction invalid or void), with the result that payments that have been agreed cannot be claimed, and payments that have already been made may be claimed back within one year (Art. 26 para. 3 and 4 ANRA). In addition, the authorities must take legal action *ex officio* to remedy the unlawful situation (see Question 81).

79 In what circumstances can a decision be revoked?

Legally binding authorisation or a declaration confirming that no authorisation is required is revoked *ex officio* if the conditions are not complied with despite a warning being issued, or if the authorisation or declaration was obtained by providing false information (Art. 25 ANRA). On revocation, a declaration is made that authorisation is required and, at the same time, a decision is made to refuse authorisation. The transaction on which authorisation or the declaratory decision is based becomes void when revocation becomes legally binding, and the unlawful situation must be rectified *ex officio*.

If the licensing authority only becomes aware of matters that are material to its decision after its decision has been issued, it may, after reconsideration, revoke or amend its decision while the appeal period is still running. ANRA does not contain any specific provisions on this process, with the result that it is primarily the relevant cantonal law on administrative procedure that applies.

80 A land register office discovers that it was misled at the time of registration and incorrectly declared a transaction not to require authorisation. The transaction has already been recorded in the land register. What can be done?

The land register office must report the matter to the relevant licensing authority without delay. If the person acquiring the property has provided incorrect or incomplete information regarding matters relevant to the authorisation requirement, the licensing authority can declare, *ex officio* and retrospectively, that authorisation is required (Art. 25 para. 1^a ANRA). At the same time as declaring authorisation is required, a decision will be taken to refuse authorisation. The transaction for which authorisation is required becomes void when the refusal of authorisation becomes legally binding, and the unlawful situation must be rectified *ex officio* (see Question 78).

81 Who is responsible for rectifying the unlawful situation?

If the unlawful situation is not otherwise remedied (for example, by implementing a settlement agreed with the relevant authority), the cantonal authority with a right of appeal or the Federal Office of Justice must, on its own initiative, take legal action to restore the original situation, to dissolve the legal entity or to arrange for the compulsory sale of the property (Art. 27 of ANRA).

82 Can a violation of the provisions of ANRA have criminal consequences?

Yes – the following violations of ANRA carry a penalty of imprisonment, a monetary penalty or a fine under certain circumstances:

- circumventing the authorisation requirement (in particular, executing a transaction that is void for lack of authorisation, or the failure by heirs subject to authorisation to obtain authorisation within the required time limit, Art. 28 ANRA);
- providing incorrect or incomplete information to an authority, a land register office or a commercial register office in connection with the decision on whether authorisation is needed or on granting authorisation, or the fraudulent exploitation of an error made by the authorities (Art. 29 ANRA);
- failing to comply with conditions (Art. 30 ANRA) and
- refusing to provide information and produce evidence (Art. 31 ANRA).

Any financial gains unlawfully obtained through an offence will be forfeited to the canton (Art. 33 ANRA). The cantons are responsible for prosecuting these offences (Art. 35 ANRA).