

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 52 of 2011

SAINT CHRISTOPHER AND NEVIS CITIZENSHIP BY INVESTMENT
REGULATIONS

Saint Christopher and Nevis Citizenship by Investment Regulations made by the
Minister under section 15 of the Citizenship Act, Cap 1.01:

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1. CITATION.

These Regulations may be cited as the Saint Christopher and Nevis Citizenship by Investment Regulations, 2011.

2. INTERPRETATION.

In these Regulations:

“Act” means the Saint Christopher and Nevis Citizenship Act, Cap 1.01;

“applicant” means a person who applies for Citizenship by Investment;

“applicant requirements” means the formal and substantial requirements which each applicant must meet as defined in these Regulations or in the Schedule to these Regulations;

“Approved Project” means a real estate development that has been approved by Cabinet as a qualified project for Citizenship by Investment, or the St. Kitts and Nevis Sugar Industry Diversification Foundation;

“authenticated translation” means a translation done by either a professional translator who is officially accredited to a court of law, a government agency, an international organization, or similar official institution, or if done in a country where there are no official accredited translators a translation done by a company whose role or business is doing professional translations;

“authorised person” means a person licensed by the Financial Services Regulatory Commission to conduct corporate or trust services in St. Kitts and Nevis, who has paid the authorized person’s fee pursuant to paragraph 1(1) of Schedule 1 to these Regulations and is authorized to act on behalf of the main applicant in relation to a citizenship by investment application;

“Cabinet” means the Cabinet of Ministers of the Government of St. Kitts and Nevis;

“certified copy” means, subject to regulation 4(15) a photocopy certified by a notary public to be a true copy of the original;

“child” means a biological or legally adopted child of a main applicant, or of the spouse of the main applicant;

“dependent” means

- (a) a spouse of the main applicant;
- (b) a child under eighteen years old of the main applicant or his or her spouse;
- (c) the child of the main applicant or his or her spouse between eighteen and twenty-five years who is in full time attendance at a recognized institution of higher learning after his or her eighteenth birthday and fully supported by the main applicant;
- (d) parents or grandparents of the main applicant or his or her spouse above the age of sixty-five years living with and fully supported by the main applicant;
- (e) a child of the main applicant or spouse of the main applicant who is above the age of eighteen years and physically or mentally challenged;

“investment” means the purchase of real estate in an Approved Project, contributions to the Sugar Industry Diversification Foundation, and any resource donated or expended which, in the opinion of Cabinet, brings substantial benefits to the Federation of St. Kitts and Nevis pursuant to regulation 5;

“main applicant” means the person who, either as a single Applicant or as the head of a family, undertakes an investment for the purposes of these Regulations and signs the relevant agreements and undertakings on behalf of his or her dependents;

“minimum investment” means an investment into an Approved Project of an amount not less than that defined in the Schedule to these Regulations;

“Minister” means the minister responsible for citizenship;

“police certificate” means a statement from a national law enforcement authority on the status of a person’s criminal record;

“SIDF” means the St. Kitts and Nevis Sugar Industry Diversification Foundation;

“spouse” means the partner of the opposite sex of the main applicant by marriage in accordance with the Marriage Act, and the Marriage (Prohibited Degrees of Relationship) Act of St. Kitts and Nevis;

“Unit” means the Government office established by regulation 3 to process all applications submitted for Citizenship by Investment;

3. ESTABLISHMENT OF INVESTMENT UNIT.

There is hereby established a Citizenship by Investment Unit that shall be responsible for processing all applications for Citizenship by Investment.

4. QUALIFICATIONS AND GENERAL REQUIREMENTS AND PROCEDURES FOR CITIZENSHIP BY INVESTMENT.

- (1) Any person who is
 - (a) at least eighteen years of age;
 - (b) has made an investment; and
 - (c) who meets the application requirements

may apply as a main applicant to become a citizen of St. Kitts and Nevis pursuant to section 3(5) of the Act.

(2) A person who has been denied a visa to a country with which St. Kitts and Nevis has visa-free travel and who has not subsequently obtained a visa to the country that issued the denial shall not be eligible to apply for Citizenship by Investment in St. Kitts and Nevis.

(3) Applications shall be made on the prescribed forms and accompanied by original documentation or certified copies of original documents as provided for in Schedules 1 and 2.

(4) Applications shall be submitted to the Unit only by an authorised person on the payment of a prescribed fee.

(5) Application forms shall be available only from the Unit upon request by the main applicant or by an authorised person on the payment of a prescribed fee.

(6) An application form shall be completed in English and any document submitted with the application shall be in English, or, if the original language of the document is not in English, the document shall be accompanied by an authenticated translation.

(7) The main applicant shall, with the exception of his or her spouse, provide a sworn affidavit of support for each dependent over eighteen years old.

(8) Each application form must be completed personally by the main applicant or the authorised person and the following conditions shall be applicable

- (a) for a child who is below the age of eighteen, both parents must sign the forms on behalf of the child as the child's legal guardians;
- (b) in a case where one parent has sole custody of a child, or another person has legal guardianship of a child, the appropriate legal documentation shall be provided to demonstrate that sole custody or guardianship was awarded by a court of law or other relevant authority;

(9) If an applicant

- (a) makes a false statement or omits information requested on any of the forms, the citizenship application may be declined;
- (b) is subsequently found to have provided false or incorrect information, the Applicant may be deprived of Citizenship of St. Kitts and Nevis pursuant to Part III, Section 8(a) of the Act,
- (c) commits any of the acts referred to in paragraphs (a) or (b) he or she may be prosecuted pursuant to the provisions of the Perjury Act, 2005.

(10) With the exception of a police certificate, which may be submitted subsequently at a later date before the application is approved, applications shall only be accepted and processed if all forms are properly completed, dated and signed, and if accompanied by all required documents and fees.

(11) Every application that is submitted shall be examined by the Unit and if deemed necessary, an applicant may be requested to attend an interview, which may be conducted in St. Kitts and Nevis or at any diplomatic or consular post of St. Kitts and Nevis.

(12) An applicant who is sixteen years and over shall undergo due diligence background checks before any decision is made in relation to his or her application.

(13) All background due diligence checks shall be commissioned by the Unit, which shall mandate one or several independent professional firms to conduct these checks according to requirements set by the Unit.

(14) An applicant between the age of eighteen and twenty-five years, who is applying as a dependent of a main applicant, shall submit official transcripts from a recognized Institution of Learning or a letter from the competent authority confirming the applicant's enrollment at that Institution of Learning.

(15) Where a notary public certifies a document to be a true copy of the original that document must be authenticated by

- (a) an Apostille in accordance with the provisions of the Hague Convention of 5th October 1961 Abolishing the Requirement of Legislation for Foreign Public Documents, in the case of countries that are parties to that Convention;
- (b) proof of the expiry date of the commission for that jurisdiction in the case of certification made by notaries public in the United States of America, Canada, and in countries which are not party to the Hague Apostille Convention.

5. SPECIFIC REQUIREMENTS FOR REAL ESTATE INVESTMENTS.

(1) Where a person executes a binding Purchase and Sale Agreement for real estate with the developer of an Approved Project, an application may be submitted on his or her behalf through an authorised person.

(2) The full purchase price of the real estate shall be in keeping with the thresholds established in Schedule I to these Regulations.

(3) Within three months of the submission of an application for Citizenship by Investment through the purchase of real estate, the Unit shall notify the authorised person on behalf of the main applicant, that the application has been:

- (a) approved in principle,
- (b) denied; or
- (c) delayed for cause and still being processed.

(4) No later than six months after the date of a notification of approval in principle pursuant to subregulation (3), the main applicant shall be required to show that

- (a) full and unencumbered title to the relevant property has been transferred to him or her, directly or indirectly through a local company, foundation or other approved entity; and
- (b) that all prescribed government fees have been paid before the grant of Citizenship by Investment can occur.

(5) Beneficial ownership through a company, shall be permissible only if such company,

- (a) has issued all of its authorised shares to the main applicant;

- (b) is established and maintained under the laws of Saint Christopher and Nevis;
- (c) is not an exempt or offshore entity;
- (d) submits through the main applicant irrefutable evidence as to its beneficial ownership, which evidence shall be certified by the Registrar of Companies.

(6) Real estate that has been purchased that qualifies an applicant for citizenship under the Citizenship by Investment programme shall not be resold for a period of at least five (5) years after the granting of citizenship.

(7) (a) Subject to subregulation (6), where real estate has already been the subject of a Citizenship by Investment application, that real estate shall not be eligible for use in a subsequent Citizenship by Investment application before January 2017; and

(b) pursuant to paragraph (a), after January 2017, where real estate that was already the subject of a Citizenship by Investment application and in respect of which, five years have passed since the granting of that Citizenship, then that property may be eligible for use in a subsequent Citizenship by Investment application.

(8) Notwithstanding subregulation (7), no real estate that was the subject of a successful Citizenship by Investment application prior to 2012 shall be eligible for use in a subsequent Citizenship by Investment application.

(9) An application for citizenship by investment shall be considered only after

(a) an Approved Project in respect of construction of real estate has commenced; and

(b) all monies have been placed in an irrevocable escrow account with an authorised person, a registered trust company or with any entity whose business is the provision of trust or custodial services, provided that the holders of such escrow accounts shall comply with guidelines published by the Unit.

(10) Where a person, being the holder of citizenship obtained through the Citizenship by Investment programme, seeks to sell or use real estate in contravention of subregulation (6), the following sanctions shall be applicable

(a) that person shall have his or her citizenship revoked;

(b) that person may be disqualified from further participation in the Citizenship by Investment programme; and

(c) any transaction purporting to sell that real estate, shall be null and void or if the transaction cannot be nullified or voided, damages shall be payable to the Government by the person.

6. SPECIFIC REQUIREMENTS FOR THE SUGAR INDUSTRY DIVERSIFICATION FOUNDATION (SIDF) CONTRIBUTIONS.

(1) In this Regulation, the expression "full contribution" means the total required investment amount in accordance with paragraph 3 of the Schedule.

(2) Within three months of the submission of an application for Citizenship by Investment, the Unit shall notify the authorised person on behalf of the main applicant whether the application has been

- (a) approved in principle;
- (b) denied; or
- (c) delayed for cause and still being processed.

(3) Not later than ninety days after the date of a notification of approval in principle pursuant to subregulation (2), the main applicant shall be required to show that the full contribution to the Sugar Industry Diversification Foundation has been deposited into a designated escrow account before the grant of Citizenship by Investment may occur.

(4) Where an application for Citizenship by Investment is denied, the full contribution less the amount for conducting a due diligence background check shall be returned to the main applicant or to an authorized person acting on his behalf within ten days of written notice of the denial being forwarded to the authorized person.

7. DUE DILIGENCE CHECKS.

(1) An applicant for Citizenship by Investment who is sixteen years and above shall undergo a due diligence background check.

(2) An applicant who

- (a) has provided false information on his or her application form;
- (b) has a criminal record;
- (c) is the subject of a criminal investigation;
- (d) is a potential national security risk to St. Kitts and Nevis or to any other country;
- (e) is involved in any activity likely to cause disrepute to the Federation of St. Christopher and Nevis; or
- (f) has been denied an entry visa by a country with whom citizens of St. Kitts and Nevis have visa free entry

shall not be approved for Citizenship by Investment.

8. DISSEMINATION OF INFORMATION.

(1) No information, promotion, advertisement or publication in relation to Citizenship by Investment shall be published or disseminated publicly by any media or by any person unless in compliance with the guidelines issued by the Unit or specifically mandated by the government.

(2) A person who contravenes the provisions of subregulation (1) shall

- (a) on summary conviction, be liable to a fine not exceeding ten thousand dollars;
- (b) where he or she has proposed a project that has already been approved, be liable to have the status of that Approved Project suspended or revoked by the Minister;
- (c) in the case of any overseas agent, be listed on the Citizenship by Investment Website as a person who is not authorised to submit to the Unit an application for Citizenship by Investment on his or her own behalf or on behalf of any other person.

9. REVIEW PROCESS.

(1) The Minister may, if deemed necessary, appoint a panel to review an application;

(2) Where the Minister appoints a review panel, the panel may request the applicant to appear in person before it.

(3) A panel that is appointed pursuant to subregulation (1) shall be comprised of the following persons

- (i) a representative from the Attorney General's Chambers,
- (ii) the Permanent Secretary of the Ministry responsible for Immigration;
- (iii) the Permanent Secretary in the Office of the Prime Minister;
- (iv) the Director of the Financial Services Department; and
- (v) the Legal Advisor to the Citizenship by Investment Unit.

(4) The Review Panel shall make a recommendation to the Minister based on its findings in relation to the application under review.

10. FORMS.

The Minister shall prescribe forms to facilitate the application process for Citizenship by Investment as set out in these Regulations.

SCHEDULE

Minimum Investment and Fees

1. Fees

- (1) Authorised persons must first register with the Citizenship by Investment Unit and pay a fee of US\$5,000.00 before they are allowed to file applications with the Unit. Fees are payable prior to January 31st of each year commencing in 2012.
- (2) Commencing on the 1st day of January 2012, the following fees shall be payable to the Unit on application for Citizenship by Investment:
 - (a) US\$7,500.00 for due diligence background checks and processing fees for the main applicant;
 - (b) US\$4,000.00 for due diligence background checks and processing fees for each dependent of the main applicant who is over the age of sixteen years;
 - (c) on approval in principle of an application through a real estate investment
 - (i) US\$50,000.00 for the main applicant;
 - (ii) US\$25,000.00 for the spouse of main applicant;
 - (iii) US\$25,000.00 for each child of the main applicant under eighteen years of age;
 - (iv) US\$50,000.00 for each qualified dependent of the main applicant above the age of eighteen years, other than his or her spouse.
2. The minimum real estate investment required on the basis of an investment in real estate is US\$400, 000.00 for each main applicant. Two or more applicants may apply for citizenship by investment together by purchasing one piece of real estate, provided that each main applicant contributes the minimum investment of US\$400,000.00 towards the investment.

3. Minimum Contributions to the Sugar Industry Diversification Foundation to qualify persons to apply to Citizenship by Investment
- (1) Sugar Industry Diversification Foundation (SIDF) Contributions
- | | |
|--|-----------------|
| (a) Single Applicant | US\$250,000.00; |
| (b) Applicant with up to three dependents: | US\$300,000.00; |
| (c) Applicant with up to five dependents: | US\$350,000.00; |
| (d) Applicant with up to seven dependents: | US\$450,000.00; |
| (e) Additional contribution for each dependent
above seven dependents | US\$50,000.00. |
- (2) The above amounts are inclusive of all Government fees payable for the main applicant and his or her dependents except for the fees outlined in paragraphs 1(2) (a) and (b) of this Schedule.
- (3) With the exception of the spouse of the main applicant, where dependents over eighteen years form part of the Application, the Minimum Investment shall be an additional fee of US\$50,000.00 per dependent which shall be payable to the Government.

Made the 6th day of September, 2011.

DENZIL L. DOUGLAS
Minister responsible for Citizenship