

SECTION 45
LAND ACT 1965

By Statutory Instrument 144/1983 the Minister for Agriculture has added an additional category of “qualified person” to Section 45 of the Land Act, 1965. The additional category is a person who is a citizen of a member State of the European Communities and who;

- (a) is exercising in the State the right of establishment as a self employed person under Article 52 of the E.E.C. Treaty by way of an economic activity the nature of which is specified in the relevant certificate given by that person under subsection 3 of the said Section 45 and
- (b) is acquiring an interest in land to which the said Section 45 applied for the purpose of or in connection with such exercise of that right.

The Statutory Instrument is in fact considerably more limited than one might believe, as the person must be exercising the right of establishment as a self employed person and must be acquiring the interest for the purpose of or in connection with the exercise of that right of establishment.

It would not appear to include foreign Nationals who buy holiday or retirement homes in Ireland or even Company Executives purchasing homes in the country. It would not appear to apply to Companies and accordingly it would appear that it may only apply, for example, a Stud Farm acquisition by an individual non National.

UPDATE (1998): Further changes have been made as follows:

Changes to Section 45 have been made by S.I. No. 67/1994 and S.I. No. 56/1995.

S.I. No. 67/1994 provides that all of Dublin City and County is exempt.

S.I. No. 56/1995 (Land Act, 1965 (Additional Categories of Qualified Persons) Regulations 1995) extended the categories of qualified persons. The definition of “qualified person” has been extended to include:

- (a) a person (other than a body corporate) whose principal place of residence is in a Member State of the European Communities or other European State which is a contracting party to the European Economic Area Agreement,
- (b) a body corporate incorporated in a Member State of the European Communities or other European State which is a contracting party to the European Economic Area Agreement and having its registered office, central administration or principal place of business within the territory of those States.

Provided a person or body corporate comes within the above definition there is now no restriction as to the vesting no matter the size of the holding.

The Land Commission no longer compulsorily acquire land and accordingly the reference to same in the old Requisitions on Title has now been deleted in the new Requisitions.