

**THE FOREIGN EXCHANGE MANAGEMENT ACT 1999**  
**(Act of 42 of 1999)**

- 1) Who are NRI ?  
An Indian citizen who is ordinarily residing outside India and holds an Indian Passport.
- 2) Who are PIO?  
A Person who or whose any of ancestors was an Indian national and who is presently holding another country's citizenship/nationality ie he/she is holding foreign passport
- 3) Who are PIO card Holder ?  
A person registered as PIO card holder under Ministry of Home Affairs scheme vide Notification No 26011/4/98-F.1 dated 19/08/2002
- 4) Who are OCI ?  
A person registered as Overseas Citizen of India (OCI) under 7A of the Citizenship Act 1955.
- 5) Who is eligible for PIO Card ?  
Any person who at any time held an Indian Passport or he or either of his parents or grand parents was born in or was permanently resident in India as defined in Government of India Act 1935 and other territories that become part of India **thereafter provided neither was at any time a citizen of Afganistan, Bhutan, China, Nepal, Pakistan and Sri Lenka or who is a spouse of a citizen of Indian origin as mention above.**
- 6) Who is eligible for OCI ?  
A foreign national who was eligible to become citizen of India on 26/01/1950 or was a citizen of India on or at anytime after 15/08/1947 and his/her children and grand children, provided his/her country of citizenship allows dual citizenship in some form or other under the

local laws, is eligible for registration as OCI. Minor children of such person are also eligible for OCI. However, **if the applicant had ever been a citizen of Pakistan or Bangladesh, he/she will not be eligible for OCI.**

- 7) Who can purchase of immovable property in India?
- 1) Indian citizen.
  - 2) Non- resident Indian (NRI)
  - 3) Person of Indian origin (PIO)- that is an individual ( **Not being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan , China , Iran, Nepal or Butan** ) who at any time, held Indian passport or who or either whose father or grand father was a citizen of India by virtue of the constitution of India or the Citizenship Act 1955

**(The general permission however, covers only purchase of residential and commercial property and not for purchase of agricultural land/plantation /farm house in India)**

- 8) Do any document need to be filed with RBI after purchase ?

No. An NRI/PIO who has purchased residential/commercial property under general permission, is not required to file any document with RBI.

- 9) How many residential/commercial properties can purchase NRI/PIO under General permission ?

There is no Restrictions on the number of residential/commercial properties that can be purchased .

- 10) Can a foreign national of non – Indian origin resident outside India purchase immovable property in India?

No. A foreign national of non – Indian origin resident outside India cannot purchase any immovable property in India. But, he/she may take residential accommodation on lease provided the period of lease does not exceed five years.

11) Can a foreign national who is a person resident in India purchase immovable property in India?

Yes, but the person concerned would have to obtain the approvals, and fulfill the requirements if any, prescribed by other authorities such as the concerned State Government etc.. However, a foreign national resident in India who is a citizen of **Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Butan would require prior approval of RBI.**

12) Can an office of a foreign company immovable property in India?

A foreign company which has established a Branch Office or other place of Business in India. In accordance to FEMA regulations, can acquire any immovable property in India which is necessary for or incidental to carry on such activity. The payment for acquisition of such a property should be made by way of foreign inward remittance through proper banking channel. A declaration in form IPI should be filed with RBI within 90 days from the date of acquiring the property. Such property can also be mortgaged with an Authorized Dealer as a security for other borrowings. On winding up of the business, the sale proceeds of such property can be repatriated only with the prior approval of RBI. Further, acquisition of immovable property by entities who had set up Branch office in India and incorporated in **Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Butan would require prior approval of RBI to acquire such immovable property.**

If a foreign company has established a Liaison Office, it cannot acquire immovable property. In such case, liaison offices, can take property by way of lease not exceeding 5 years.

13) Whether immovable property in India can be acquired by way of Gift?

Yes, NRIs, PIOs can freely acquire immovable property by way of Gift either from a person resident in India, and NRI or

a PIO. However, the property can only be commercial or residential.

**Agricultural land/plantation /farm house in India cannot acquire by way of Gift.**

A foreign national of non-Indian origin resident outside India cannot acquire any immovable property in India through Gift.

14) Whether a non-resident can inherit immovable property in India?

Yes, a person resident outside India ie

1) a person resident in India

2) a person resident outside India

However, the person from whom the property is inherited should have acquired the same in accordance with the foreign exchange regulations applicable at that point of time.

15) Can an NRI/PIO/ Foreign national of non-Indian origin sale his residential/commercial property ?

**NRI can sell property in India to :-**

1) a person resident in India or

2) an NRI or

3) a PIO

**PIO can sell property in India to:-**

1) a person resident in India or

2) an NRI or

3) a PIO **-(with the prior approval of RBI)**

**Foreign national of non-Indian origin** including a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan can sell property in India with prior approval of the Reserve Bank to

- i) a person resident in India
- ii) an NRI
- iii) a PIO

16. Can a non-resident owning / holding an agricultural land / a plantation property / a farm house in India sell the said property?

(a) NRI / PIO may sell agricultural land /plantation property/farm house to a person resident in India who is a citizen of India.

(b) Foreign national of non-Indian origin resident outside India would need prior approval of the Reserve Bank to sell agricultural land/plantation property/ farm house in India.

17 Can an NRI / PIO / foreign national holding an agricultural land / a plantation property / a farm house in India, gift the same?

(a) NRI / PIO can gift an agricultural land / a plantation property / a farm house in India only to a person resident in India who is a citizen of India.

(b) A foreign national of non-Indian origin would require the prior approval of the Reserve Bank to gift an agricultural land / a plantation property / a farm house in India.

18. Can residential / commercial property be mortgaged by NRI/ PIO?

**NRI / PIO can mortgage a residential / commercial property to:**

(a) an Authorised Dealer / the housing finance institution in India without the approval of Reserve Bank

(b) a bank abroad, with the prior approval of the Reserve Bank.

ii) A foreign national of non-Indian origin can mortgage a residential / commercial property only with prior approval of the Reserve Bank.

iii) A foreign company which has established a Branch Office or other place of business in accordance with FERA/FEMA regulations has general permission to mortgage the property with an Authorized Dealer in India.

19. How can an NRI / PIO make payment for purchase of residential / commercial property in India?

Ans. Payment can be made by NRI / PIO out of:

(a) funds remitted to India through normal banking channels or

(b) funds held in NRE / FCNR (B) / NRO account maintained in India

No payment can be made either by traveller's cheque or by foreign currency notes or by other mode except those specifically mentioned above.

20. Can NRI / PIO repatriate outside India the sale proceeds of immovable property held in India?

(a) In the event of sale of immovable property other than agricultural land / farm house / plantation property in India by a NRI / PIO, the Authorised Dealer may allow repatriation of the sale proceeds outside India, provided the following conditions are satisfied, namely:

(i) the immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations;

(ii) the amount to be repatriated does not exceed:

- the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels, or
- the amount paid out of funds held in Foreign Currency Non-Resident Account, or
- the foreign currency equivalent (as on the date of payment) of the amount paid where such payment was made from the funds held in Non-Resident External account for acquisition of the property; and

(iii) in the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

For this purpose, repatriation outside India means the buying or drawing of foreign exchange from an authorised dealer in India and remitting it outside India through normal banking channels or crediting it to an account denominated in foreign currency or to an account in Indian currency maintained with an authorised dealer from which it can be converted in foreign currency.

(b) in case the property is acquired out of Rupee resources and/or the loan is repaid by close relatives in India (as defined in Section 6 of the Companies Act, 1956), the amount can be credited to the NRO account of the NRI/PIO. The amount of capital gains, if any, arising out of sale of the property can also be credited to the NRO account.

NRI/PIO are also allowed by the Authorised Dealers to repatriate an amount up to USD 1 million per financial year out of the balance in the NRO account / sale proceeds of assets by way of purchase / the assets in India acquired by him by way of inheritance / legacy. This is subject to production of documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter, and a tax clearance / no objection certificate from the Income Tax Authority for the remittance. Remittances exceeding US \$

1,000,000 (US Dollar One million only) in any financial year requires prior permission of the Reserve Bank.

(c) A person referred to in sub-section (5) of Section 6 of the Foreign Exchange Management Act 3[3], or his successor shall not, except with the prior permission of the Reserve Bank, repatriate outside India the sale proceeds of any immovable property referred to in that sub-section.

21 Can NRI / PIO rent out the residential / commercial property purchased out of foreign exchange / rupee funds?

Yes, NRI/PIO can rent out the property without the approval of the Reserve Bank. The rent received can be credited to NRO / NRE account or remitted abroad. Powers have been delegated to the Authorised Dealers to allow repatriation of current income like rent, dividend, pension, interest, etc. of NRIs/PIO who do not maintain an NRO account in India based on an appropriate certification by a Chartered Accountant, certifying that the amount proposed to be remitted is eligible for remittance and that applicable taxes have been paid/provided for.

\*\*\*\*\*