

THE INVESTMENT PROMOTION ACT

Regulations made by the Minister under section 28 of the Investment Promotion Act

1. Short title

These regulations may be cited as the Investment Promotion (Invest Hotel Scheme) Regulations 2015.

2. Interpretation

In these regulations –

“Act” means the Investment Promotion Act;

“approved hotel development” means –

(a) a hotel development; or

(b) a deleveraging plan of a hotel,

approved by the Board under these regulations;

“Building and Land Use Permit” has the same meaning as in the Local Government Act;

“hotel” has the same meaning as in the Tourism Authority Act;

“hotel development” means the construction, alteration, refurbishment, reconstruction, extension, conversion or upgrading of a hotel, on a hotel development area;

“hotel development area” means the physical area of land, whether freehold or leasehold, of an extent of not less than one hectare covered by a project under these regulations;

“hotel owner” means the owner of a hotel in operation;

“IHS” means the Invest Hotel Scheme set up under regulation 3;

“IHS Company” –

- (a) means a company whose IHS project has been approved by the Board; and
- (b) includes a company holding an IHS certificate;

“IHS project” means a project under the IHS relating to a hotel in operation or to a hotel to be constructed, as the case may be;

“IHS technical committee” means the technical committee set up by the Board under regulation 5;

“non-citizen” –

- (a) means any citizen other than a citizen of Mauritius; but
- (b) does not include a prohibited immigrant;

“prohibited immigrant” has the same meaning as in the Immigration Act;

“State land” has the same meaning as in the State Lands Act;

“Tourism Authority” means the Authority established under section 3 of the Tourism Authority Act;

“tourist” has the same meaning as in the Tourism Authority Act;

“unit” means a room, an apartment, a villa or a suite forming part of a hotel;

“unit owner” means any person who acquires a unit under the IHS.

3. Invest Hotel Scheme

There shall be set up for the purposes of these regulations a scheme to be known as the Invest Hotel Scheme.

4. Application for IHS certificate

(1) No person shall make an application for an IHS certificate unless the person is a company incorporated under the Companies Act.

(2) An application for an IHS certificate for a hotel development shall be made to the Board, in such form and manner as the Board of Investment may determine, and shall be accompanied by –

- (a) a full and detailed account of the particulars of the IHS project;
- (b) a copy of the letter of intent from the Tourism Authority;
- (c) a copy of the letter of reservation, letter of intent or lease agreement from the Ministry responsible for the subject of lands, or a copy of the title deed, in respect of the site earmarked for the hotel project;
- (d) an implementation plan relating to the project with full details including a timeframe for its completion;
- (e) a specimen copy of the deed of sale or transfer of a unit to a unit owner;
- (f) a specimen copy of the lease agreement referred to regulation 8(d)(i); and
- (g) any such other particulars or information as may be specified in the application form.

(3) An application for an IHS certificate by the owner of a hotel shall be made to the Board, in such form and manner as the Board of Investment may determine, and shall be accompanied by –

- (a) a business plan with full and detailed account of the particulars of the hotel and the purpose for which the units are proposed to be sold or transferred; or
- (b) a deleveraging plan with full and detailed account of the particulars of the hotel and the purpose for which the units are proposed to be sold or transferred,

as the case may be, and

- (c) a copy of the lease agreement or title deed, as the case may be, in respect of the hotel; and
- (d) any other particulars or information as may be specified in the application form.

(4) On receipt of an application, the Board shall refer the application to the IHS technical committee.

5. IHS Technical Committee

(1) The Board shall, in accordance with section 17 of the Act, set up an IHS technical committee to examine and report on an application for an IHS certificate and facilitate its implementation.

(2) The members of the IHS technical committee shall include –

- (a) a representative of the Ministry responsible for the subject of finance;
- (b) a representative of the Ministry responsible for the subject of housing and lands; and
- (c) a representative of the Ministry responsible for the subject of tourism.

(3) The IHS technical committee may request an applicant to make such modifications to an IHS project as it considers necessary.

(4) The IHS technical committee shall, after examining an application, submit its report to the Board, together with its observations, comments and recommendations.

6. Approval of IHS project

(1) On receipt of a report submitted to it under regulation 5(4), the Board shall, on being satisfied that a project meets the requirements of these regulations, approve the project on such terms and conditions as it may determine.

(2) Where the project is approved under paragraph (1), the Board shall issue a letter of approval to the applicant.

7. Issue of IHS certificate

Where, under regulation 6(2), a letter of approval is issued –

- (a) to a company pursuant to an application made under regulation 4(2), the Board shall issue an IHS certificate to the company subject to the company obtaining all the necessary permits and clearances, including a Building and Land Use Permit; or
- (b) to the owner of a hotel pursuant to an application made under regulation 4(3), the Board shall issue an IHS certificate to the

owner of the hotel on such terms and conditions as the Board may determine.

8. Approved hotel development

A unit in an approved hotel development under the IHS may be sold or transferred on the condition that –

- (a) the unit is available for use as tourist accommodation;
- (b) the number of units sold or transferred does not exceed such percentage of the total number of units in the hotel as the Board may approve, subject to a maximum of 60 per cent;
- (c) the sale or transfer may be governed by the provisions of a *règlement de copropriété* but not under the provisions of a *société d'attribution*;
- (d) the IHS company –
 - (i) enters into a lease agreement with every unit owner to manage, operate and market the unit and to take reservations in relation thereto; and
 - (ii) operates the front desk and provides all hotel services;
- (e) the unit may, under the agreement referred to in paragraph (d)(i), be used and occupied by the unit owner or on his behalf for an aggregate period not exceeding 45 days in any period of 12 months;
- (f) the unit owner shall not have the right on, or any interest in, the State land on which the hotel may be located;
- (g) a non-citizen unit owner shall be eligible to a residence permit under the Immigration Act by virtue of the acquisition of a unit; and
- (h) the IHS company does not, in the course of its business, enter into a timeshare agreement.

9. Persons eligible to acquire a unit under the IHS

No person shall acquire a unit under the IHS unless the person is –

- (a) a non-citizen;

- (b) a citizen of Mauritius;
- (c) a company incorporated, or registered as a foreign company, under the Companies Act;
- (d) a *société*, where its deed of formation is deposited with the Registrar of Companies;
- (e) a partnership under the Limited Partnerships Act; or
- (f) a trust under the Trusts Act, where the trusteeship services are provided by a qualified trustee.

10. Acquisition of a unit under the IHS

(1) (a) Where the acquisition of a unit under the IHS is made by a non-citizen, payment shall be effected in US dollars or its equivalent in any other freely convertible foreign currency or Mauritius currency.

(b) The amount payable for the acquisition of a stand-alone villa relating to a hotel to be constructed shall not be less than 500,000 US dollars.

(c) Where the amount payable is made in any freely convertible foreign currency other than US dollars or Mauritius currency, the exchange rate to be used to calculate the equivalent to the amount specified in subparagraph (b) shall be the exchange rate in force on the date of the application.

(2) Where the payment is effected pursuant to paragraph (1), the amount payable for the acquisition of the property and the registration duty payable thereon under the Registration Duty Act shall be financed by the purchaser from –

- (a) funds outside Mauritius and transferred to Mauritius through any reputable bank listed in the Banking Almanach recognised by the Bank of Mauritius; or
- (b) loans contracted in Mauritius currency with a bank in Mauritius provided that –
 - (i) the first 500,000 US dollars are paid to the IHS Company in US dollars or its equivalent in any other freely convertible foreign currency; and

- (ii) the repayment of the loan is effected in any freely convertible foreign currency.

(3) An IHS Company may, subject to paragraphs (4) and (5), sell or transfer a unit.

(4) The sale or transfer of a unit may be made –

- (a) on the basis of a plan, during the construction phase; or
- (b) when the construction is completed.

(5) Where the sale or transfer of a unit is made on the basis of a plan or during the construction phase, the contract shall be governed by the provisions of a *vente à terme* or *vente en l'état futur d'achèvement (VEFA)*, as the case may be, in accordance with the provisions of Articles 1601-1 to 1601-45 of the Code Civil Mauricien.

11. Application to acquire unit

(1) Any person referred to in regulation 9 who intends to acquire a unit under the IHS shall, through the IHS Company, make an application to the Managing Director in such form as the Managing Director may approve.

(2) Where an application is made under paragraph (1), the IHS Company shall, at the time of the application, pay to the Board of Investment, a non-refundable processing fee of 10,000 rupees per unit.

(3) Where an application is approved by the Board, the IHS Company and the person acquiring the unit shall pay land transfer tax under the Land (Duties and Taxes) Act and registration duty under the Registration Duty Act.

12. Resale of unit under the IHS

(1) Where a unit owner intends to sell or transfer the unit, he shall, within 30 days prior to the sale, give notice thereof, in writing, to the Managing Director.

(2) No sale or transfer shall be made pursuant to paragraph (1) unless it is –

- (a) made to a person referred to in regulation 9;
- (b) in conformity with these regulations except that –

- (i) the application for the sale or transfer shall be made to the Managing Director; and
- (ii) the applicant shall pay a non-refundable processing fee of 10,000 rupees to the Board of Investment,

without having to forward it through the IHS company.

13. Mode of payment of duty and taxes

(1) The amount of land transfer tax or registration duty payable shall, when paid in any freely convertible foreign currency, be credited to the account of the Accountant-General with the Bank of Mauritius.

(2) Where payment is effected in any freely convertible foreign currency, the exchange rate to be used to calculate the US dollar equivalent to the amount of land transfer tax or registration duty payable shall be the selling exchange rate in force at the time of signature of the title deed.

(3) Where payment is effected in accordance with paragraph (1), the notary shall, at the time of registration of the deed of transfer with the Registrar-General, deposit a certificate from the bank certifying the particulars of the payment of the land transfer tax and the registration duty.

14. Duties of IHS company

An IHS Company shall –

- (a) at all times, be answerable to the Board of Investment for the proper implementation an IHS project, in accordance with an IHS certificate.
- (b) not make any alteration to the components of an IHS project without the prior approval of the Board;
- (c) submit to the Managing Director, within one month after the end of every quarter, starting from the first quarter immediately following the date of issue of an IHS certificate, a progress report on the implementation of the IHS project; and
- (d) invest the proceeds of the sale or transfer of any unit in the hotel in such manner and within such time as the Board may approve.

15. Revocation

The Investment Promotion (Real Estate Development Scheme) Regulations 2007 are revoked.

16. Savings

Notwithstanding regulation 15, any –

- (a) application made or approved;
- (b) letter of approval, IRS Certificate, RES Certificate or IHS Certificate issued; or
- (c) or any act or thing done,

under the revoked regulations and which are valid on the date immediately preceding the commencement of these regulations shall, on the commencement of these regulations, continue to have effect as if the revoked regulations were not revoked.

Made by the Minister on 30 November 2015.
