

REPUBLIC



OF CYPRUS

115(I) of 2003

THE CAPITAL MOVEMENT LAW, 2003

(English translation)

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Number 115(I) of 2003

A LAW TO PROVIDE FOR THE MOVEMENT OF CAPITAL
AND PAYMENTS, THE TRANSACTIONS IN FOREIGN
EXCHANGE AND GOLD, THE TAKING
OF SAFEGUARD MEASURES AND OTHER
RELATED MATTERS

PART I

INTERPRETATION, SCOPE OF APPLICATION

For purposes of compatibility with Articles 43, 46, 49, 56, 57, 58, 59, 60, 119 and 120 of the Treaty establishing the European Community,

The House of Representatives enacts as follows:

Short title. 1. This Law may be cited as the Capital Movement Law, 2003.

Interpretation. 2. In this Law, unless the context otherwise requires-

“alien” means any natural person or legal person, but it does not include-

- (a) a national of a member state;
- (b) a citizen of the Republic;
- (c) a legal person incorporated in the Republic;

Schedule. “capital movement” has the meaning assigned to it by the Schedule;

“Central Bank” means the Central Bank of Cyprus;

“Commission” means the Commission of the European Communities;

“Council” means the Council of the European Union;

“credit institution” means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account, and holds a relevant license by the competent authority of a member state to operate and includes a bank as this term is defined in the Banking Business Laws, 1997 to 2003, as well as a co-operative credit society as this term is defined in the Co-operative Credit Societies Laws, 1985 to (No. 2), 2003;

66(l) of 1997
74(l) of 1999
94(l) of 2000
119(l) of 2003.
22 of 1985
68 of 1987
190 of 1989
8 of 1992
22(l) of 1992
140(l) of 1999
140(l) of 2000
171(l) of 2000
8(l) of 2001
122(l) of 2003
123(l) of 2003.

“Cyprus currency” means the Cyprus pound and includes any other currency issued and circulating by virtue of any law in force for the time being in the Republic;

“Cyprus Stock Exchange” means the Stock Exchange established under section 3 of the Securities and Stock Exchange Laws, 1993 to (No. 4), 2002;

14(l) of 1993
32(l) of 1993
91(l) of 1994
45(l) of 1995
74(l) of 1995
50(l) of 1996
16(l) of 1997
62(l) of 1997
71(l) of 1997
83(l) of 1997
29(l) of 1998
137(l) of 1999
19(l) of 2000
20(l) of 2000
39(l) of 2000
42(l) of 2000
49(l) of 2000
50(l) of 2000
136(l) of 2000
137(l) of 2000
141(l) of 2000
142(l) of 2000
175(l) of 2000
9(l) of 2001

37(l) of 2001
43(l) of 2001
66(l) of 2001
79(l) of 2001
80(l) of 2001
81(l) of 2001
82(l) of 2001
105(l) of 2001
119(l) of 2001
120(l) of 2001
1 (l) of 2002
87(l) of 2002
147(l) of 2002
162(l) of 2002.

“financial services” includes the activities defined in subsection (3) of section 13 of the Banking Business Laws, 1997 to 2003;

“foreign currency” means any currency other than the Cyprus currency;

“foreign exchange” means any foreign currency, cheques, travellers' cheques, or any document of a kind intended to enable the person to whom it is issued, to obtain any foreign currency from some other person on the credit of the person issuing it;

“gold” means gold pounds, gold coins and gold bullion or gold bullion in accordance with international specifications, but it does not include gold used for commercial or industrial purposes;

“investment firm” has the meaning assigned to it by the Investment Firms (I F) Laws, 2002 and 2003;

“investment services” has the meaning assigned to it by the Investment Firms (I F) Laws, 2002 and 2003;

148(l) of 2002
214(l) of 2002
6(l) of 2003.

“legal person” includes a company or any association of persons incorporated either in or outside the Republic;

“member state” means any member state of the European Union and a contracting party to the European Economic Area;

“national of a member state” means a national of any member state and includes a legal person incorporated in accordance with the law of a member state and having its registered office, central administration or the principal place of its business within a member state;

“portfolio investment” means a holding by an alien of share capital in a company, which does not exceed ten per cent of the company’s share capital;

“securities” means shares and titles equated to shares, government bonds, bonds, debentures, titles of companies or of other legal persons incorporated pursuant to a law within the Republic, units in collective investment undertakings and rights thereof, including contracts or rights and warrants;

“subsidiary company” and “holding company” have the meaning assigned to them, respectively, by the Companies Law;

Cap. 113.
9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
41(l) of 1994
15(l) of 1995
21(l) of 1997
82(l) of 1999
149(l) of 1999
2(l) of 2000
135(l) of 2000
151(l) of 2000
76(l) of 2001.

“third country” means any state, but it does not include the Republic or any member state;

“transaction in foreign currency” means the dealings carried out by a person for its own account or for the account of third parties, relating to foreign exchange, but it does not include the acceptance of foreign exchange for the payment of goods or services.

Scope of application.

3.—(1) Subject to the provisions of subsection (2), this Law shall apply in cases of-

- (a) Capital movements and payments between residents of the Republic and residents of member states, and between residents of the Republic and residents of third countries;
- (b) transactions in foreign exchange and gold in the Republic.

(2) The provisions of sections 13, 14 and 15 shall not apply in relation to the Government or the Central Bank.

PART II

CAPITAL MOVEMENT AND PAYMENTS

Free movement of capital and payments.

4.—(1) Notwithstanding the provisions of any other law in force for the time being in the Republic and subject to the provisions of sections 5 and 6, the movement of capital and payments between residents of the Republic and residents of member states and between residents of the Republic and residents of third countries shall be effected without any restriction.

(2) "Resident of Cyprus", for the purposes of this section, means-

- (a) Any natural person, irrespective of his nationality, residing or having the intention to reside in the Republic for at least one year;
- (b) a citizen of the Republic serving abroad in an embassy, consulate or other service of the Republic;

- (c) a citizen of the Republic who is studying or receiving medical care abroad, irrespective of the duration of the studies or medical care;
- (d) a citizen of the Republic working on a ship or aircraft or other means of transport, operating either wholly or partly outside the Republic;
- (e) a department or service of the government and local authority, a semi-governmental organization, or a public corporation;
- (f) any organization or undertaking of any legal form, registered and having natural presence in the Republic;
- (g) any branch, agency or any form of agency of a non-resident legal person operating in the Republic.

Exemptions.

5.-(1) The provisions of section 4 shall be without prejudice to any restrictions which existed on 31 December 1993 and on the date of the coming into force of this Law, adopted in respect of the movement of capital from third countries involving direct investments, including the immovable property acquisition and the provision of financial services.

(2) The provisions of section 4 shall be without prejudice to the provisions of the Immovable Property Acquisition (Aliens) Law.

Cap. 109.
52 of 1969
55 of 1972
50 of 1990
54(l) of 2003.

Reservations
in the
application of
section 4.

6. Subject to the provisions of section 60 of the Treaty establishing the European Community, the provisions of section 4 shall be without prejudice to the right of the Republic-

- (a) To take all requisite measures to prevent infringements of the law in force for the time being in the Republic, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information or to take measures which are justified on grounds of public order or public security;
- (b) to apply the decisions of the Council in connection with the taking of measures and sanctions against third countries;
- (c) to take measures, within the framework of its competences, for serious political reasons and on grounds of urgency, against a third country with regard to capital movements and payments;
- (d) to apply the safeguard measures in accordance with the provisions of section 7 and to take safeguard measures in accordance with the provisions of section 25:

Provided that, the measures and procedures referred to in paragraph (a) shall not constitute a disguised restriction on the free movement of capital and payments as defined in section 4.

PART III

SAFEGUARD MEASURES

Taking of
safeguard
measures.

7. The Central Bank shall, within the framework of its competences and subject to the provisions of sections 59 and 60 of the Treaty establishing the European Community, apply the safeguard measures and sanctions that the Council

may take with regard to a third country, as prescribed in section 6.

PART IV

DIRECT INVESTMENTS

Liberalization of direct investments carried out by nationals of a member state.

8. Direct investments carried out in the Republic by nationals of a member state shall be effected in accordance with the law in force for the time being in the Republic which applies to its nationals.

Restriction on direct investments carried out by nationals of a member state.

9. Notwithstanding the provisions of section 8, the Council of Ministers may restrict direct investments carried out by nationals of a member state in the Republic, justified on grounds of protection of public order, public security or public health or imposed on by reason of restriction or prohibition of the production of or trade in arms, munitions or war material.

Direct investments carried out by aliens.

10. Subject to the provisions of subsection (1) of section 5, the policy with regard to direct investments carried out by aliens in the Republic shall be approved by the Council of Ministers, upon a proposal of the Minister of Finance.

Competent Authority.

11. The competent authority for the approval of direct investments carried out by aliens, by virtue of this Law, shall be the Minister of Finance.

Transfer of securities or shares.

12. No person shall transfer securities or shares in existing companies, other than portfolio investments and securities admitted to trading in the Cyprus Stock Exchange, in the name of aliens, except with the prior permission of the Minister of Finance as referred to in section 11.

PART V

TRANSACTIONS IN FOREIGN EXCHANGE AND GOLD

Transactions
in foreign
exchange.

138(l) of 2002.

13.--(1) Subject to the provisions of subsection (2) of section 3, no person other than a credit institution, may act as an authorized dealer in the Republic except with the prior permission of the Central Bank in accordance with the provisions of section 36 of the Central Bank of Cyprus Law:

Provided that, transactions in foreign exchange may be effected by any subsidiary of such a credit institution, on condition that the subsidiary is included in the supervision on a consolidated basis, that is exercised over a credit institution.

(2) For the purposes of this section, "authorized dealer" means any person, authorized by the Central Bank to effect any transactions in foreign exchange.

(3) Notwithstanding the provisions of section 12, the investment firms (IF), may carry out spot or forward transactions in foreign exchange, only in the case of services connected with the provision of investment services.

Buying
and selling
of gold.

14.--(1) Subject to the provisions of subsection (2) of section 3, the buying and selling of gold not used for commercial or industrial purposes, may be effected only by credit institutions or their subsidiaries.

(2) Transactions under subsection (1) may be effected with natural persons or legal persons, irrespective of whether such persons are residents of the Republic or not.

PART VI

DECLARATION OF THE AMOUNT OF BANKNOTES AND GOLD

Declaration
of the amount
of banknotes
and gold.

15. Subject to the provisions of subsection (2) of section 3, any person who enters the Republic or leaves therefrom is obliged to declare to a competent officer of the Customs and Excise Department, when entering or leaving, any amount of banknotes either in Cyprus or in foreign currency, carried with him or the value of any gold, provided that the amount or the value of the gold carried with him is equal to or exceeds seven thousand three hundred Cyprus pounds or twelve thousand five hundred Euro or any other amount the Central Bank may determine by issuing Directives, or the said person to produce a copy of the relevant transaction, if a credit institution has acted as an intermediary for the buying thereof.

Omission
of declaration.

16. Any person who omits to declare to a competent officer of the Customs and Excise Department the amount of banknotes or the gold value carried with him in accordance with the provisions of section 15, shall be guilty of an offence and, in case of conviction, shall be punishable as provided for in section 19.

Power to
compound
offences.

17. The power granted to the Director of the Customs and Excise Department to compound any offence by virtue of the Customs and Excise legislation in force for the time being, shall apply, *mutatis mutandis* in relation to the offence provided for in section 16.

Carrying of investigations.

18. The provisions of the Customs and Excise legislation in force for the time being as regards the carrying of investigations, shall apply, *mutatis mutandis* in relation to the offence provided for in section 16.

PART VII

MISCELLANEOUS

Offences and penalties.

19. Any person who contravenes any of the provisions of this Law shall be guilty of an offence and, in case of conviction, shall be punishable with a fine not exceeding fifty thousand pounds (CYP 50.000) and, in case of a continuing offence, with a further fine not exceeding one thousand pounds (CYP 1.000) for each day, during which the offence continues.

Criminal prosecution.

20. No prosecution in respect of any offence under this Law shall be instituted, except by or with the consent of the Attorney-General of the Republic.

General or special approvals and Directives.

21.-(1) Any approval granted under this Law-

- (a) May be either general or special;
- (b) may be revoked by the competent authority;
- (c) may be absolute or conditional;
- (d) may be limited, so as to expire on a specified date, unless renewed.

(2) Any Directives given under any provision of this Law-

- (a) May be either general or special;

(b) may be revoked or varied by subsequent Directives.

PART VIII

TRANSITIONAL AND FINAL PROVISIONS

Repeal.
Cap.199.
53 of 1972.

22. Subject to the provisions of sections 23 and 24, the Exchange Control Law is hereby repealed.

Validity
of existing
permissions
or authorities.

23.—(1) All permissions or authorities issued under the repealed Exchange Control Law, in force at the time of the coming into force of this Law, shall be deemed to be permissions or authorities issued under this Law and shall continue to be in force until amended or revoked, in so far as they are not inconsistent with the provisions of this Law and any Directives issued under this Law.

(2) Any conditions imposed on a permission or authority referred to in subsection (1) shall be deemed to be conditions imposed by virtue of this Law, in so far as they are not inconsistent with the provisions of this Law or any Directives issued under this Law and shall continue to be in force until amended or revoked.

Validity of
any
Regulations,
Directives,
Orders etc.

24. Any Regulations, Directives, Orders or other administrative acts issued by virtue of the Exchange Control Law, in force at the time of the coming into force of this Law, shall continue to be in force until amended and shall apply, in so far as they are not inconsistent with the provisions of this Law and any Directives or Decisions issued under this Law.

Transitional provisions.

25.—(1) Until the accession of the Republic to the Eurozone and subject to the provisions of Articles 119 and 120 of the Treaty establishing the European Community, the Republic may take safeguard measures-

- (a) In case of difficulties as regards the balance of payments, either as a result of an overall disequilibrium in the balance of payments, or as a result of the type of currency at the disposal of the Republic and, where such difficulties are liable in particular to jeopardise the functioning of the common market or the progressive implementation of the common commercial policy; and
- (b) in case of a sudden crisis in the balance of payments.

(2) The Republic shall inform the Commission and the other member states of such measures.

Entry into force of this Law.

26. This Law shall come into force on the date of the accession of the Republic to the European Union.

SCHEDULE

(section 2)

INTERPRETATION OF TERMS RELATING TO CAPITAL MOVEMENTS

The capital movements listed in this nomenclature are taken to cover:

1. DIRECT INVESTMENTS¹

- (a) Establishment and extension of branches or new undertakings belonging solely to the person providing the capital, and the acquisition in full of existing undertakings.
- (b) Participation in new or existing undertakings with a view to establishing or maintaining lasting economic links.
- (c) Long-term loans with a view to establishing or maintaining lasting economic links.
- (d) Reinvestment of profits with a view to maintaining lasting economic links.

2. INVESTMENTS IN REAL ESTATE (not included under 1)¹

3. OPERATIONS IN SECURITIES NORMALLY DEALT IN ON THE CAPITAL MARKET (not included under 1, 4 and 5)

- (a) Shares and other securities of a participating nature¹.
- (b) Bonds¹.

¹ See explanatory notes below.

4. OPERATIONS IN UNITS OF COLLECTIVE INVESTMENT UNDERTAKINGS¹

- (a) Units of undertakings for collective investment in securities normally dealt in on the capital market (shares, other equities and bonds).
- (b) Units of undertakings for collective investment in securities or instruments normally dealt in on the money market.
- (c) Units of undertakings for collective investment in other assets.

5. OPERATIONS IN SECURITIES AND OTHER INSTRUMENTS NORMALLY DEALT IN ON THE MONEY MARKET¹

- (a) Transactions in securities and other instruments on the money market.
- (b) Admission of securities and other instruments to the money market.

6. OPERATIONS IN CURRENT AND DEPOSIT ACCOUNTS WITH FINANCIAL INSTITUTIONS¹

7. CREDITS RELATED TO COMMERCIAL TRANSACTIONS OR TO THE PROVISION OF SERVICES IN WHICH A RESIDENT OF A MEMBER STATE IS PARTICIPATING

- (a) Short-term (less than one year).
- (b) Medium-term (from one to five years).
- (c) Long-term (five years or more).

¹ See explanatory notes below.

8. FINANCIAL LOANS AND CREDITS (not included under 1, 7 and 11)¹

- (a) Short-term (less than one year).
- (b) Medium-term (from one to five years).
- (c) Long-term (five years or more).

9. SURETIES, OTHER GUARANTEES AND RIGHTS OF PLEDGE

10. TRANSFERS IN PERFORMANCE OF INSURANCE CONTRACTS

- (a) Premiums and payments in respect of life assurance.
- (b) Premiums and payments in respect of credit insurance.
- (c) Other transfers of capital in respect of insurance contracts.

11. PERSONAL CAPITAL MOVEMENTS

- (a) Loans.
- (b) Gifts and endowments.
- (c) Dowries.
- (d) Inheritances and legacies.
- (e) Settlement of debts by immigrants in their previous country of residence.

¹ See explanatory notes below.

- (f) Transfers of assets constituted by residents, in the event of emigration, at the time of their installation or during their period of stay abroad.
- (g) Transfers, during their period of stay, of immigrants' savings, to their previous country of residence.

12. PHYSICAL IMPORT AND EXPORT OF FINANCIAL ASSETS

- (a) Securities.
- (b) Means of payment of every kind.

13. OTHER CAPITAL MOVEMENTS

- (a) Death duties.
- (b) Damages (where these can be considered as capital).
- (c) Refunds in the case of cancellation of contracts or uncalled-for payments (where these can be considered as capital).
- (d) Author's royalties: patents, designs, trade marks and inventions (assignments and transfers arising out of such assignments).
- (e) Transfers of the monies required for the provision of services (not included under 6).
- (f) Miscellaneous.

EXPLANATORY NOTES

For the purposes of this nomenclature and this Law only, the following expressions have the meanings assigned to them respectively:

Direct investments

Investments of all kinds by natural persons or commercial, industrial or financial undertakings, and which serve to establish or to maintain lasting and direct links between the person providing the capital and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity.

The undertakings mentioned under 1(a) of the nomenclature include legally independent undertakings (wholly-owned subsidiaries) and branches.

As regards those undertakings mentioned under 1(b) of the nomenclature which have the status of companies limited by shares, there is participation in the nature of direct investment where the block of shares held by a natural person of another undertaking or any other holder represents ten per cent or more of the company's share capital or enables the shareholder, either pursuant to the provisions of national laws relating to companies limited by shares or otherwise, to participate effectively in the management of the company or in its control.

Long-term loans of a participating nature, mentioned under 1(c) of the nomenclature, means loans for a period of more than five years which are made for the purpose of establishing or maintaining lasting economic links. The main examples which may be cited are loans granted by a company to its subsidiaries or to companies in which it has a share and loans linked with a profit-sharing arrangement. Loans

granted by financial institutions with a view to establishing or maintaining lasting economic links are also included under this heading.

Investments in real estate

Purchases of buildings and land and the construction of buildings by private persons for gain or personal use. This category also includes rights of usufruct, easements and building rights.

Issue of securities and other negotiable instruments

Sale by way of an offer to the public.

Placing of securities and other negotiable instruments

The direct sale of securities by the issuer or by the consortium which the issuer has instructed to sell them, with no offer being made to the public.

Shares and other securities of a participating nature

Including rights to subscribe to new issues of shares.

Bonds

Negotiable securities with a maturity of two years or more from issue for which the interest rate and the terms for the repayment of the principal and the payment of interest are determined at the time of issue.

Collective investment undertakings

Undertakings:

- the object of which is the collective investment in transferable securities or other assets of the capital they raise and which operate on the principle of risk-spreading, and

- the units of which are, at the request of holders, under the legal, contractual or statutory conditions governing them, repurchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a collective investment undertaking to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption.

Securities and other instruments normally dealt in on the money market

- Treasury bills and other negotiable bills, certificates of deposit, bankers' acceptances, commercial paper and other like instruments.

Credits related to commercial transactions or to the provision of services

- Contractual trade credits (advances or payments by instalment in respect of work in progress or on order and extended payment terms, whether or not involving subscription to a commercial bill) and their financing by credits provided by credit institutions. This category also includes factoring operations.

Financial loans and credits

Financing of every kind granted by financial institutions, including financing related to commercial transactions or to the provision of services in which no resident is participating.

This category also includes mortgage loans, consumer credit and financial leasing, as well as back-up facilities and other note-issuance facilities.