

**SUBSIDIARY LEGISLATION 217.04**  
**IMMIGRATION REGULATIONS**

1st May, 2004

*LEGAL NOTICE 205 of 2004, as amended by Legal Notices 307 and 426 of 2012.*

PART I

Preliminary

1. (1) The title of these regulations is the Immigration Regulations. Title and commencement.

(2) These regulations shall come into force on 1st May, 2004, except for regulation 12(3) which shall come into force on such date or dates as the Minister may by notice in the Gazette appoint.

2. In these regulations, unless the context otherwise requires - Interpretation.  
"the Act" means the Immigration Act; Cap. 217.

"border crossing point", unless otherwise provided by or under these regulations, means any crossing point between states, and "border check" means a check carried out at such border crossing point in response exclusively to an intention to pass through the border crossing point;

"citizen of the Union" means a national of any Member State and includes Maltese nationals where the context so requires;

"Common Consular Instructions" means the "Common Consular Instructions on visas for the diplomatic missions and consular posts of the Contracting Parties to the Schengen Convention" issued by the European Union as defined in the European Union Act; Cap. 460.

"dependant" in relation to another person means -

- (a) for right of residence -
  - (i) his spouse and their descendants under twenty-one years of age or who depend on them;
  - (ii) his ascendants and those of his spouse who depend on them;
- (b) for right to employment -
  - (i) his spouse;
  - (ii) their children under twenty-one years of age or who depend on such person;

"employment agency" means the public agency on employment service set up in terms of the Employment and Training Services Act; Cap. 343.

"identification document" includes a valid passport, identification card, travel document or other appropriate document as the Minister may, by notice in the Gazette, designate as such for

the purposes of these regulations;

"licence" means such employment licence as may be required for the holder to engage as an employed person or to carry out some other economic activity in Malta;

"Maltese national" means any person deemed to be a citizen of Malta in virtue of the Constitution of Malta and any other law as may be in force;

"Member State" has the same meaning as that of "Agreement State" as defined in the Act;

"person to be refused entry" means a person who in the opinion of the Principal Immigration Officer is to be withheld from crossing a border crossing point;

"residence document" includes a permit issued under article 4A of the Act to dependants of citizens of the Union, who are not themselves citizens of the Union, and in particular includes an authorisation of any type, whether temporary or not, or whether given for a special or *ad hoc* purpose, giving the right of residence within the territory of Malta;

"residence permit" includes a permit issued under article 4A of the Act, and in particular includes an authorisation of any type, whether temporary or not, or whether given for a special or *ad hoc* purpose, giving the right of residence to a citizen of the Union within the territory of Malta;

"Schengen Agreement" has the same meaning as that of "Border Agreement" as defined in the Act and "Schengen" shall be construed accordingly;

"third country" means any state except Malta or any another Member State;

"third country national" means a person who is not a citizen of the Union;

"travel document" means such document as entitles the holder to cross a border crossing point;

"uniform residence permit" means a permit issued under article 4A of the Act, and in particular means an authorisation of any type giving the right of residence within the territory of Malta to a third country national who is not dependent upon a citizen of the Union. This definition shall not include temporary permission for residence in Malta for the purpose of the processing of an application for asylum or an application for a uniform residence permit;

"visa" means an authorisation issued in terms of article 8 of the Act for the purpose of these regulations.

## PART II\*

Entry, Free Movement and related rights of Citizens of the Union  
and their Dependants

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\*This Part is revoked with respect to nationals of the EU only. See S.L. 460.17.

3. (1) Subject to the provisions of these regulations, a citizen of the Union shall have the right to enter, remain and reside in Malta, seek and take up employment or self-employment therein, and such rights shall, subject to what is stated in these regulations, be also applicable to dependants.

General provisions.

(2) Subject to limitations justified on grounds of public policy, public security or public health, a citizen of the Union shall have the right of entry and exit simply on production of a valid identification document and to move freely within Malta for a period of three months, commencing on the date of entry, or such other period as may be prescribed:

Provided that, where he intends to reside for a longer period, he shall apply for and be granted a residence permit as specified in these regulations.

(3) The period of three months referred to in the preceding subregulation is extendable to six months in the case of a person who provides evidence that, subject to the provisions of these regulations, he is genuinely seeking employment and has a genuine prospect of securing employment by the end of the said period of six months.

(4) The Principal Immigration Officer shall not refuse entry into Malta, nor shall he refuse to issue or renew a residence permit or other residence document, or any stamp or visa, as the case may be, to which the persons referred to under this Part are entitled, nor shall he remove such persons, except where such refusal or removal is justified on grounds of public policy, public security or public health.

(5) Where action is taken in accordance with the preceding subregulation, such refusal or removal shall be based exclusively on the personal conduct of the individual concerned, and previous criminal convictions shall not in themselves constitute grounds for the taking of such measures.

(6) Expiry of the identification document used by a citizen of the Union and his dependants to enter Malta and the failure of such persons to obtain a residence permit or a residence document as the case may be, shall not, by itself, justify removal from Malta.

(7) When the Principal Immigration Officer refuses entry to or refuses to issue a first residence permit to any citizen of the Union on grounds of public health, reference may only be made to the diseases and disabilities mentioned in any regulation made under articles 44 and, or, 50 of the Prevention of Disease Ordinance. Diseases or disabilities occurring after a first residence permit has been issued shall not, by themselves, justify refusal to renew the residence permit or for removal from Malta.

Cap. 36.

4. (1) Any citizen of the Union may reside in Malta but where such residence is to exceed the period mentioned in regulation 3(2), or when, during the six month period mentioned in regulation 3(3), such citizen takes up employment, he shall apply for a permit and the Principal Immigration Officer shall, subject to the provisions of these regulations, issue the citizen and, where applicable, his

Right of residence.

dependants, with a residence permit or a residence document.

(2) Save as otherwise provided for in this regulation, a residence permit shall be valid for a period of five years from the date of issue and shall, in normal circumstances, be automatically renewable.

(3) Breaks in residence not exceeding six consecutive months and absence on military service shall not affect the validity of the residence permit.

(4) Without prejudice to any rights which dependants may enjoy in terms of these regulations, they shall have the right of residence in Malta only for as long as the right of residence of the citizen of the Union continues and the conditions mentioned therein continue to subsist.

(5) The Principal Immigration Officer shall facilitate the admission of a family member if such person is economically dependent upon the citizen of the Union or shares the same abode in the country where they resided before coming to Malta.

(6) A residence permit and, or, residence document shall specify whether the residence has been taken up for the purpose of long-term or permanent stay in Malta, for work, study or other purpose.

(7) Whenever a person wishes to change the scope for which a residence permit and, or, a residence document has been issued, he shall apply to the Principal Immigration Officer, and such Officer shall, subject to the provisions of these regulations in particular those relating to work, issue a new residence permit and, or, a residence document.

(8) The provisions of these regulations shall be without prejudice to the provisions of any law regulating the acquisition of property in Malta by non Maltese nationals and a residence permit or a residence document shall not, by itself, entitle the holder to acquire or hold property in Malta over and above what is regulated by the Immovable Property (Acquisition by Non-Residents) Act.

Cap. 246.

Residence and  
employment.

5. (1) Where a citizen of the Union wishes to take up employment (hereinafter referred to as "the worker") no such employment can be undertaken unless, in addition to a residence permit, a licence has been issued, provided that such licence shall not, subject to what is stated herein, be withheld.

(2) The provisions of these regulations shall be without prejudice to any restrictions on employment on grounds of citizenship in those sectors of the Public Service that are open only to Maltese nationals.

(3) Where a citizen of the Union is a worker pursuing an activity as an employed person in Malta, his dependants shall, even if they are third country nationals, have the right to install themselves with the worker, and for such purposes, they shall be issued with a residence permit or a residence document as the case may be, subject to the same rights and conditions as the residence permit held by the person of whom they are dependants, including

the right to take up an activity as an employed person in Malta provided that the worker shall have available for his dependants, accommodation considered as normal for Maltese workers.

(4) Entitlement to a residence permit and, or, residence document for the purpose of employment shall be evidenced as follows:

- (a) by the worker:
  - (i) production of a valid identification document with which the citizen of the Union entered Malta; and
  - (ii) production of a licence;
- (b) by the dependants:
  - (i) a valid identification document; and
  - (ii) a visa, if the dependants are citizens of a state whose citizens require a visa when crossing the border crossing point; and
  - (iii) a document issued by a competent authority of the state of origin or the state from which such dependants came, proving their relationship to the worker; and
  - (iv) a document issued by the competent authority of the state of origin or the state from which the dependants came testifying that they depend on the worker or that they share the same abode in such country.

(5) A citizen of the Union who enters Malta for work and who, having been granted a residence permit, is employed in Malta shall, subject to the following provisions of this regulation, be considered to have resident status for as long as he does not become voluntarily unemployed:

Provided that where the worker employed in Malta has his residence in a Member State other than Malta, and returns to such state at least once a week, he shall be issued with a special residence permit valid for five years and automatically renewable.

(6) Residence may be revoked where the worker has become voluntarily unemployed and such revocation may be extended to his dependants as the case may be.

(7) The Minister responsible for employment, may, by Order, and on the advice of the employment agency, indicate that in his opinion the grant of a licence to a citizen of the Union and, or, his dependants in a particular sector or occupation creates or may create disturbances on the labour market which could seriously threaten the standard of living or level of employment.

(8) For the purpose of subregulation (7), in particular for the monitoring of the labour market by the employment agency, any person who employs a worker shall abide by the provisions of the Manpower Records (Commencement or Termination of Employment) Regulations, both at time of employment and at time of termination.

(9) Any person who employs a worker without a licence shall be guilty of an offence in terms of the Act.

Employment and special circumstances.  
*Amended by:*  
*L.N. 307 of 2012.*

6. (1) Where, in terms of these regulations, a residence permit is issued for the purpose of work, such residence permit may not be withdrawn solely on the grounds that the worker is no longer in employment, either because he is temporarily incapable of work as a result of illness or accident or due to his being involuntarily unemployed, this being duly confirmed by the employment agency:

Provided that, if he has been involuntarily unemployed for more than twelve consecutive months at the first renewal date, the subsequent period of residence may be restricted to a period of less than five years but more than twelve months on the advice of the employment agency.

(2) A citizen of the Union who enters Malta to take up employment for a period of between three and twelve months and is so employed by an employer in Malta or is in the employ of a person lawfully providing services in Malta, shall be entitled to apply for a residence permit the validity of which shall be limited to the expected period of employment.

(3) A residence permit shall likewise be issued to a seasonal worker employed for a period of more than three months for the expected duration of the seasonal work. The period of employment shall be shown in the licence.

(4) A citizen of the Union who enters Malta to take up employment for three months or less, whether seasonal or otherwise, shall not be entitled to a residence permit but may stay in Malta for the duration of the work period on the basis of a licence.

(5) Subject to the provisions of regulation 3, completion of the formalities for obtaining a residence permit shall not hinder the immediate commencement of employment under a contract lawfully concluded by applicants having the right to take up employment in Malta provided that they are in possession of a licence.

(6) Subject to the provisions of this regulation, a citizen of the Union who has worked in Malta as an employed person as envisaged in regulations 4 and 5, shall have the right to remain permanently in Malta if -

- (a) at the time of termination of his employment he has reached retirement age, has been employed for at least twelve months before that date and has resided continuously in Malta for more than three years; or
- (b) he ceases to work as an employed person as a result of permanent incapacity to work, having resided in Malta continuously for more than two years, provided that the required minimum residence period shall not apply if such incapacity is the result of an accident at work or an occupational disease entitling him to a pension for which an institution or body in Malta is wholly or partially responsible; or

- (c) having ceased to work as an employed person after three years continuous employment and residence in Malta, he works as an employed person in another Member State while retaining his residence in Malta, to which he returns, at least once a week.

(7) Periods of employment completed in the circumstances of subregulation (6)(c) in another Member State shall be considered as having been completed in Malta for the purposes of entitlement to the rights referred to in subregulation (6)(a) and (b).

(8) The conditions as to length of residence and employment laid down in subregulation (6)(a) and the condition as to length of residence laid down in subregulation (6)(b), shall not apply if the spouse of any such person is a citizen of Malta or has lost Maltese citizenship by reason of marriage to him.

(9) Periods of involuntary unemployment, duly recorded by the employment agency and absences due to illness or accident shall be considered as periods of employment within the meaning of subregulation (6).

(10) Dependants of the person referred to in subregulation (6) and who are residing with him in Malta shall also be entitled to remain in Malta permanently if such person has acquired the right to remain in Malta in accordance with the provisions of this regulation and the rights of such dependants shall subsist even after such person's death:

Provided that if such person dies while in employment before having acquired the right to remain permanently in Malta, the dependants shall be entitled to remain permanently in Malta provided either -

- (i) that such person had, on the date of his death, resided continuously in Malta for at least two years; or
- (ii) that his death resulted from an accident at work or an occupational disease; or
- (iii) that the surviving spouse is a citizen of Malta or lost Maltese citizenship only by reason of marriage to such person.

(11) Such persons who by virtue of this regulation have the right to remain permanently in Malta shall be entitled to a residence permit and, or, a residence document valid for five years which permit and, or, document shall be automatically renewable. Periods of non-residence not exceeding six consecutive months shall not affect the validity of the residence permit and, or, residence document.

(12) The right to remain permanently in Malta as referred to in subregulation (6)(a) and (b) and in subregulation (10) may be exercised at any time within two years from the time when the person entitled to this right becomes so entitled. During such period the person entitled may leave Malta without prejudicing such right.

(13) Continuity of residence as provided for in subregulation (6) and in the proviso to subregulation (10) may be attested by the

residence permit and, or, residence document issued in terms of subregulation (11). It shall not be affected by temporary absences not exceeding a total of three months per year, nor by longer absences due to compliance with obligations of military service.

(14) The Principal Immigration Officer shall facilitate the readmission into Malta of workers who have left Malta after having been employed and having resided in Malta for a long period and who wish to return to Malta after having retired or become permanently incapacitated for work.

Self-employment,  
establishment and  
the provision or  
receipt of services.

7. (1) Without prejudice to regulation 3 and subject to any restrictions or conditions as may be imposed by these regulations -

- (a) any citizen of the Union may enter Malta to establish himself in Malta in order to pursue activities as a self-employed person, to provide services in Malta, or as recipient of services; and
- (b) the dependants shall have the same rights as such a citizen, without prejudice to the requirement that such dependants may be required to have a visa for entry into Malta.

(2) The Principal Immigration Officer shall facilitate the admission of any family member of a citizen as mentioned in subregulation (1), if such family member is economically dependent upon the citizen of the Union, or his spouse, or was sharing the same abode in the country of origin.

(3) The provisions of regulation 4(2) and (3), and in so far as self-employed persons are concerned of regulation 6(1), shall *mutatis mutandis* apply.

(4) The right of residence for persons providing and receiving services shall be of equal duration with the period during which the services are provided. If the period during which the services are provided exceeds three months a residence permit shall be issued; where the period does not exceed three months, the identification document with which the person concerned entered Malta shall suffice to cover his stay.

(5) A residence document shall be issued to dependants who are not citizens of the Union, and such residence document shall have the same validity as for the citizen of the Union concerned.

(6) An applicant for a residence permit and, or, residence document, being one of the persons mentioned in subregulation (1) shall present -

- (a) a valid identification document, and, where a visa is required in accordance with subregulation (1) for a dependant, the visa with which he entered Malta; and
- (b) proof that he falls within one of the categories of persons referred to in this regulation.

(7) The provisions of regulation 6(6) to (14) relating to the right to remain permanently in Malta shall apply, *mutatis mutandis*, in regard to citizens of the Union who have pursued activities as self-employed persons in Malta and their dependants.



(8) No citizen of the Union or his dependant can pursue activities as a self-employed, unless he -

- (a) is a *bona fide* self-employed person;
- (b) operates from a registered address and satisfies all other requirements that are normally required of a self-employed Maltese national, including all matters relating to registration and taxation; and
- (c) has the ability to support himself and such dependants as may be accompanying him.

(9) The regulations mentioned in regulation 5(8) shall apply to self-employed persons and providers of services.

**8.** (1) A citizen of the Union has the right to reside in Malta for the purpose of following a course of education including vocational training in accordance with this regulation.

Residence for study.

(2) Without prejudice to the generality of regulations 3 and 4, the right of residence recognised by subregulation (1) shall be subject to the following conditions:

- (a) that the citizen of the Union is enrolled in a recognised educational establishment as provided for in the Education Act or by the Employment and Training Services Act for the principal purpose of following a course of education, including a vocational training course therein;
- (b) that he and his dependants entitled to accompany him, as defined in subregulation (4), and accompanying him, are covered by sickness insurance in respect of all risks in Malta; and
- (c) that he makes a declaration of resources or otherwise gives an assurance to the Principal Immigration Officer that he has sufficient resources to avoid becoming a burden on the social assistance system in Malta during the period of residence of himself and his dependants.

Cap. 327.  
Cap. 343.

(3) A citizen of the Union seeking entry into Malta for the purposes of this regulation shall furnish sufficient proof of compliance with the conditions prescribed in this regulation to the Principal Immigration Officer at the time of entry into Malta.

(4) Subject to the generality of the provisions relating to third country nationals, the dependants of a student shall be entitled to accompany him, to reside in Malta and to take up any employed or self-employed activity in Malta, even if they are not themselves citizens of the Union, so however that for the purposes of this regulation, the term "dependant" does not include the ascendant of the student or of his spouse.

(5) The rights of residence recognised or enjoyed under this regulation shall continue for the duration of the course of studies in question and as long as the conditions set out in this regulation continue to subsist.

(6) Save as otherwise provided in this regulation, a residence permit as may be prescribed, issued upon application to a citizen of the Union, shall be limited in duration to:

- (a) the particular course of studies, where the duration of such course is shorter than one year; or
- (b) a period of one year on a renewable basis if the course of studies is of longer duration.

(7) The dependants shall also be entitled to such permit, but if they are not citizens of the Union, then they shall be issued with a residence document which has the same validity as that issued to the citizen of the Union.

(8) Entitlement to a residence permit and, or, a residence document, where it arises under this regulation, shall be evidenced as follows:

- (a) for the student:
  - (i) a valid identification document;
  - (ii) proof that he has been enrolled in a recognised educational establishment for the principal purpose of following a course of education including a vocational training course thereat;
  - (iii) proof that he is covered by sickness insurance as provided in subregulation (2)(b);
  - (iv) a declaration that he has sufficient resources as referred to in subregulation (2)(c);
- (b) for his dependants:
  - (i) a valid identification document;
  - (ii) a visa, if the dependants are not citizens of the Union but of a state whose citizens require a visa when crossing the border crossing point;
  - (iii) proof of the relationship with the student and, where applicable, of dependence on him;
  - (iv) proof that each dependant is covered by sickness insurance as provided in subregulation (2)(b);
  - (v) a declaration by the student that he has sufficient resources as referred to in subregulation (2)(c).

Long-term  
residence.

9. (1) A citizen of the Union and his dependants who do not otherwise enjoy the right of residence in Malta under this Part shall have the right to reside in Malta in accordance with the provisions of this regulation.

(2) The Principal Immigration Officer shall issue the persons mentioned in subregulation (1) with a residence permit and, or, a residence document valid for a maximum period of five years, automatically renewable, provided that the citizen of the Union and those dependants actually accompanying him -

- (a) are covered by sickness insurance in respect of all risks in Malta;
- (b) have sufficient resources as provided for in this regulation, to avoid their becoming a burden on the

social assistance system in Malta during the period of their residence; and

- (c) provide evidence to that effect, along with a valid identification document and, in the case of dependants who are third country nationals, a valid visa, when the application for the residence permit and, or, a residence document is submitted.

(3) For the purposes of subregulation (2)(b), the resources referred to in that paragraph shall be deemed sufficient if they are higher than the level of resources indicated by the Ministry responsible for social policy as being the minimum means which determine the grant of social assistance to Maltese nationals, and taking into account the personal circumstances of the applicant and, where appropriate, the personal circumstances of accompanying dependants. If this criterion cannot be applied, such resources shall be deemed sufficient if they are higher than the level of the national minimum social security pension payable by the Government of Malta at the time of application.

(4) Subject to the provisions of this regulation, the dependants shall, irrespective of their citizenship, have the right to install themselves in Malta with such a citizen of the Union as is entitled to reside in Malta under the provisions of this regulation.

(5) The rights of residence recognised or enjoyed under this regulation shall continue for as long as the conditions referred to in this regulation continue to subsist.

(6) The provisions of regulation 4(2), (3) and (4) shall *mutatis mutandis* apply. So however that the permit may be revalidated at the end of the first two years of residence.

(7) Subject to the preceding provisions of this regulation and of regulation 3, the dependants of a citizen of the Union shall be entitled to take up any employed or self-employed activity in Malta, even if they are not themselves citizens of the Union, under the same conditions applicable to such citizens.

(8) The Principal Immigration Officer shall facilitate the admission of any family member of a citizen mentioned in subregulation (1), if such family member is economically dependent upon the citizen of the Union, or his spouse, or was sharing the same abode in the country of origin.

**10.** (1) The Principal Immigration Officer shall make a decision as to whether to grant or refuse a first residence permit, or whether to renew same, as soon as possible and in any event not later than six months from the date of application for the permit. The person concerned shall be allowed to remain in Malta temporarily pending a decision to grant or refuse such application.

Issue and renewal of permits and other documents.

(2) Where necessary, the Principal Immigration Officer may request from a Member State, be it the state of origin of the applicant or some other Member State, information concerning any previous criminal or conduct certificate of the applicant.

(3) Where the information mentioned in the preceding

subregulation is requested of the Maltese competent authority by another Member State, the competent authority shall reply within two months of receiving the request.

(4) Where an application is refused, the person concerned shall, unless this is contrary to the interests of the security of Malta, be informed of the grounds of public policy, public security, or public health upon which the decision taken in his case is based.

(5) The person concerned shall be officially notified of any decision to refuse the issue or renewal of a residence permit or of a decision to remove him from Malta, in which case, the individual shall be asked to leave Malta.

(6) The period allowed for leaving Malta shall be stated in such notification but save in cases of urgency, this period shall be not less than fifteen days if the person concerned had not been granted a residence permit and not less than one month in any other case.

### PART III

#### Rights of Third Country Nationals

Entry into and  
movement within  
Malta.

**11.** (1) Subject to the provisions of article 6 of the Act and the following provisions of this regulation, a third country national may be permitted to enter Malta for a visit the duration of which shall not exceed three months provided he -

- (a) holds a valid passport;
- (b) holds a valid visa, as required by the Common Consular Instructions;
- (c) submits, before entry into Malta, documents substantiating the purpose and the conditions of the planned visit, as applicable;
- (d) has, even if in possession of a valid visa, sufficient means of support, both for the period of the planned visit and to return to his country of origin or to travel in transit to a third state into which his admission is guaranteed, or is in a position to acquire such means legally;
- (e) has not been reported as a person to be refused entry; and
- (f) is not considered to be a threat to public policy or national security.

(2) If all the conditions listed in the previous subregulation are not fulfilled, a third country national shall be refused entry into Malta except where -

- (a) the Principal Immigration Officer considers that it is necessary to admit him on humanitarian grounds or in the national interest or in honour of the international obligations of the Government of Malta; or
- (b) he holds a uniform residence permit or a re-entry visa, or both as may be required, issued by a Member State, in which case, he shall be permitted to enter Malta for

the sole purpose of transit; or

- (c) he holds a Schengen visa when entering Malta from a Schengen State, provided that if he is returning to a Schengen State the validity thereof covers the period to be spent in Malta and his return to the Schengen State from which he arrived, or where he is not returning to a Schengen State he has sufficient means and documents to cover his stay in Malta and his onward journey.

(3) Nothing in this Part shall prejudice the application of special provisions concerning the rights of persons governed by the Refugees Act.

Cap. 420.

(4) A third country national who is not required to hold a visa under the provisions of this Part shall be entitled to enter into and move freely within Malta for a period of three months, provided that the Principal Immigration Officer may extend beyond three months the visit in Malta of such a third country national.

(5) The provisions of these regulations are without prejudice to the rights of third country nationals under Part II of these regulations.

(6) Nothing in these regulations shall be construed as conferring on any person, being a person to be refused entry, the right of entry.

**12.** (1) A third country national shall only be entitled to reside in Malta if a uniform residence permit for a specific purpose is issued in his regard.

Uniform residence permits to third country nationals.

(2) The provisions of subregulation (1) shall not apply to a third country national who has been given temporary permission to reside in Malta for the purpose of the processing of an application for asylum or an application for a uniform residence permit.

(3)\* Without prejudice to regulation 7(3), the provisions of regulations 5, 6, 8, 9 and 10 shall *mutatis mutandis* apply to this Part, so however that a third country national cannot apply for a licence or a uniform residence permit for the purpose of seeking or taking up employment; nor may he apply to change the nature of the uniform residence permit into one empowering him to seek or take up employment, while he is already in Malta, save as the Minister may direct in exceptional circumstances.

#### PART IV

##### Travel Documents, Visas and Border Checks

**13.** Identification at any border crossing point may, subject to the provisions of these regulations, be made by means of a passport, a legally valid identification document, or other official document as may be agreed to among Member States:

Identification documents.  
Amended by:  
L.N. 426 of 2012.

Provided that in respect of third country nationals, regulation 11 shall apply.

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\*Not yet in force.

Emergency travel document.

**14.** An emergency travel document issued by the Passport Officer shall entitle the holder to cross a border crossing point as indicated in such document.

Entering or leaving a border crossing point.

**15.** (1) In general there shall be no border checks on Maltese citizens and citizens of the Union entering or leaving a border crossing point provided that this shall not affect the obligation of any person to hold and carry such permits and documents as are required to be held. The competent authorities may exercise police powers under Maltese law throughout Maltese territory as may be required.

(2) The Minister may by Order, in the interests of public policy or national security, provide that for a limited period border checks appropriate to the situation be carried out at the border crossing point, provided that the Minister shall, at the earliest opportunity, inform the other Member States.

(3) When border checks are carried out, every person shall be subject to at least one check carried out with a view to establishing his identity on the basis of such travel documents as may be required and in addition, the following principles shall apply:

- (a) citizens of the Union, including Maltese nationals, their vehicles and objects shall only be subjected to random border checks and such checks shall include the verification of the travel documents and of the other conditions governing entry and residence including the documentation mentioned in these regulations and also checks to detect and prevent threats to the national security and public policy; and
- (b) regular border checks shall be carried out on third country nationals, including in this case, a check to establish that the third country national is, where required, in possession of a valid visa.

Border crossing points.

**16.** (1) It shall be an offence for a person to cross or attempt to cross the border otherwise than in accordance with the provisions of these regulations and any person found guilty of such an offence shall, on conviction, be liable to the punishments contemplated in the Act.

(2) A person who acquires a residence permit, a residence document or a uniform residence permit on the basis of false or wrong information or is privy to such act, or who, having acquired residence for a particular purpose, changes the scope of his residence without informing or obtaining the permission of the Principal Immigration Officer as the case may be, shall be guilty of an offence and shall, on conviction, be liable to the punishments contemplated in the Act.

(3) Without prejudice to subregulations (1) and (2), the Principal Immigration Officer may remove the person mentioned in those subregulations.

(4) The Principal Immigration Officer may provide for the proper implementation of these regulations including, without prejudice to the generality of this provision, the drawing up of a list

of persons to be refused entry into Malta.

(5) Subject to the overriding provisions of law relating to data protection, the Principal Immigration Officer may require any carrier to provide him with the name and surname of passengers as may be entering or exiting a border crossing point.

17. (1) Without prejudice to the rights of entry and residence envisaged both by the Act and by these regulations and the powers of the Principal Immigration Officer to issue a visa at the border as the case may be, no person who, in terms of the Common Consular Instructions requires a visa to cross a border crossing point, may enter Malta without a visa. Visas.

(2) The mere possession of a visa does not entitle its holder to an automatic right of entry.

(3) The Minister may, by Order, make exemptions from the visa requirement with regards to -

- (a) holders of diplomatic passports, official duty passports and other official passports;
- (b) civilian air and sea crew;
- (c) the flight crew and attendants on emergency or rescue flights and other helpers in the event of disaster or accident;
- (d) the holders of "laissez-passer" issued by certain intergovernmental organisations to their officials;
- (e) persons entering Malta to pursue a gainful activity during their stay;
- (f) a school pupil having the nationality of a third country requiring a visa who resides in a third country exempted from a visa requirement and is travelling in the context of a school excursion as a member of a group of school pupils accompanied by a teacher from the school in question;
- (g) a school pupil who is a third country national but who is legally resident in a Member State and who seeks to enter Malta either for a short stay or in transit.

(4) Stateless persons within the meaning of the New York Convention of 28 September 1954 and recognised refugees within the meaning of the Geneva Convention of 28 July 1951 shall be subject to the visa requirement or shall be exempted from it on the same terms as nationals of third countries in which such stateless persons or recognised refugees reside and which had issued travel documents to such stateless persons or recognised refugees.

## PART V

### Miscellaneous Provisions

18. *(Deleted by Legal Notice 307 of 2012).* Identity cards.

19. Any person aggrieved by any decision of the Principal Immigration Officer may appeal to the Board as provided for in article 25A(5) of the Act. Appeals.

- Applicability. **20.** (1) The Minister may, by Order, extend all or any of the rights pertaining to citizens of the Union to nationals of such states as may be prescribed in the Order.
- (2) The Minister may, by Order, exempt any person -
- (a) who is a member of the armed forces of a country other than Malta which are present in Malta under and within the scope of arrangements with the Government of Malta; or
- (b) who is in Malta in an advisory or consultative capacity to the Government on invitation of the same,
- from all or any of the provisions of these regulations.
- Fees due. **21.** By Order made under these regulations, the Minister may also stipulate the fees and charges as may be due.
- Transitory provisions. **22.** (1) Without prejudice to the generality of the other provisions of these regulations, the following provisions shall apply to persons lawfully resident in Malta as on the time of the coming into force of these regulations:
- (a) any person in possession of a residence permit issued in terms of article 7 of the Act before the coming into force of these regulations may be asked by the Principal Immigration Officer to have his permit re-confirmed;
- (b) if the person resides in Malta for the purpose of employment -
- (i) where such person is a citizen of the Union he shall apply to the Principal Immigration Officer for a residence permit and he shall produce a licence as evidence of his employment in Malta;
- (ii) where such person is a third country national, he shall in like manner, apply for a uniform residence permit or residence document, as the case may be;
- (c) the provisions of paragraphs (a) and (b) shall, *mutatis mutandis*, apply to dependants.
- (2) Without prejudice to subregulation (1), a third country national who has been regularly resident in Malta for a continuous period of four years prior to 1 May 2004, excluding periods abroad aggregating three months per annum or less, shall be required to apply for a uniform residence permit in virtue of these regulations, by not later than 31st October 2004.
- (3) Regulations 8 and 12 shall apply to any student who is in Malta as on the date of the coming into force of these regulations, unless such a student is leaving Malta permanently by the 31st August 2004.
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