Maltese Legislation on Immigration and Asylum

Compiled by:
The People for Change Foundation
CONSTITUTION OF MALTA

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20A. The State shall facilitate the participation of Maltese citizens who live abroad in the political, social, economic and cultural life of Malta.

21. The provisions of this Chapter shall not be enforceable in any court, but the principles therein contained are nevertheless fundamental to the governance of the country and it shall be the aim of the State to apply these principles in making laws.

CHAPTER III
Citizenship

22. (1) The acquisition, possession, renunciation and loss of Maltese citizenship shall be regulated by law.

(2) Dual or multiple citizenship is permitted in accordance with any law for the time being in force in Malta.

23. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Malta or under any enactment for the time being in force in any country to which this article applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948 or who continues to be a British subject under article 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen.

(3) The countries to which this article applies are those listed in the Fourth Schedule to this Constitution.

(4) The President may by Proclamation amend, add to, revoke or substitute the list of countries in the Fourth Schedule to this Constitution.

24. (1) A Commonwealth citizen who is not a citizen of Malta or a citizen of the Republic of Ireland who is not a citizen of Malta shall not be guilty of an offence against any law in force in Malta by reason of anything done or omitted in any part of the Commonwealth other than Malta or in the Republic of Ireland or in any foreign country unless -

(a) the act or omission would be an offence if he were an alien; and

(b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done...
or the omission made were a foreign country.

(2) In this article -

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"British Protected Person" means a person who is a British protected person for the purposes of the British Nationality Act, 1948 or any other law of the United Kingdom replacing that Act;

"foreign country" means a country (other than the Republic of Ireland) that is not a part of the Commonwealth.


28. and 29. were renumbered by Act III of 2000.


CHAPTER IV

Fundamental Rights and Freedoms of the Individual

32. Whereas every person in Malta is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, sex, sexual orientation or gender identity, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely -

(a) life, liberty, security of the person, the enjoyment of property and the protection of the law;

(b) freedom of conscience, of expression and of peaceful assembly and association; and

(c) respect for his private and family life,

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and
freedoms, subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

33. (1) No person shall intentionally be deprived of his life in execution of the sentence of a court in respect of a criminal offence under the law of Malta of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this article if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case -

(a) for the defence of any person from violence or for the defence of property;
(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
(c) for the purpose of suppressing a riot, insurrection or mutiny; or
(d) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

34. (1) No person shall be deprived of his personal liberty save as may be authorised by law in the following cases, that is to say -

(a) in consequence of his unfitness to plead to a criminal charge;
(b) in execution of the sentence or order of a court, whether in Malta or elsewhere, in respect of a criminal offence of which he has been convicted;
(c) in execution of the order of a court punishing him for contempt of that court or of another court or tribunal or in execution of the order of the House of Representatives punishing him for contempt of itself or of its members or for breach of privilege;
(d) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;
(e) for the purpose of bringing him before a court in execution of the order of a court or before the House of Representatives in execution of the order of that House;
(f) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;
(g) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
(h) for the purpose of preventing the spread of an infectious or contagious disease;

(i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community; or

(j) for the purpose of preventing the unlawful entry of that person into Malta, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Malta or the taking of proceedings relating thereto or for the purpose of restraining that person while he is being conveyed through Malta in the course of his extradition or removal as a convicted prisoner from one country to another.

(2) Any person who is arrested or detained shall be informed at the time of his arrest or detention, in a language that he understands, of the reasons for his arrest or detention:

Provided that if an interpreter is necessary and is not readily available or if it is otherwise impracticable to comply with the provisions of this sub-article at the time of the person’s arrest or detention, such provisions shall be complied with as soon as practicable.

(3) Any person who is arrested or detained -

(a) for the purpose of bringing him before a court in execution of the order of a court; or

(b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence,

and who is not released, shall be brought not later than forty-eight hours before a court; and if any person arrested or detained in such a case as is mentioned in paragraph (b) of this sub-article is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that person.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question authorises the taking during such a period of public emergency as is referred to in paragraph (a) or (c) of sub-article (2) of article 47 of this Constitution of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

(6) If any person who is lawfully detained by virtue only of such a law as is referred to in the last foregoing sub-article so
requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and composed of a person or persons each of whom holds or has held judicial office or is qualified to be appointed to such office in Malta.

(7) On any review by a tribunal in pursuance of the last foregoing sub-article of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered, but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

35. (1) No person shall be required to perform forced labour.

(2) For the purposes of this article, the expression "forced labour" does not include -

(a) any labour required in consequence of the sentence or order of a court;

(b) labour required of any person while he is lawfully detained by sentence or order of a court that, though not required in consequence of such sentence or order, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained or, if he is detained for the purpose of his care, treatment, education or welfare, is reasonably required for that purpose;

(c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(d) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community.

36. (1) No person shall be subjected to inhuman or degrading punishment or treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question authorises the infliction of any description of punishment which was lawful in Malta immediately before the appointed day.

(3) (a) No law shall provide for the imposition of collective punishments.

(b) Nothing in this sub-article shall preclude the imposition of collective punishments upon the members of a disciplined force in accordance with the law regulating the discipline of that force.
37. (1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where provision is made by a law applicable to that taking of possession or acquisition -

(a) for the payment of adequate compensation;

(b) securing to any person claiming such compensation a right of access to an independent and impartial court or tribunal established by law for the purpose of determining his interest in or right over the property and the amount of any compensation to which he may be entitled, and for the purpose of obtaining payment of that compensation; and

(c) securing to any party to proceedings in that court or tribunal relating to such a claim a right of appeal from its determination to the Court of Appeal in Malta:

Provided that in special cases Parliament may, if it deems it appropriate so to act in the national interest, by law establish the criteria which are to be followed, including the factors and other circumstances to be taken into account, in the determination of the compensation payable in respect of property compulsorily taken possession of or acquired; and in any such case the compensation shall be determined and shall be payable accordingly.

(2) Nothing in this article shall be construed as affecting the making or operation of any law so far as it provides for the taking of possession or acquisition of property -

(a) in satisfaction of any tax, rate or due;

(b) by way of penalty for, or as a consequence of, breach of the law, whether under civil process or after conviction of a criminal offence;

(c) upon the attempted removal of the property out of or into Malta in contravention of any law;

(d) by way of the taking of a sample for the purposes of any law;

(e) where the property consists of an animal upon its being found trespassing or straying;

(f) as an incident of a lease, tenancy, licence, privilege or hypothec, mortgage, charge, bill of sale, pledge or other contract;

(g) by way of the vesting or administration of property on behalf and for the benefit of the person entitled to the beneficial interest therein, trust property, enemy property or the property of persons adjudged bankrupt or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons, or bodies corporate or unincorporate in the course of being wound up or liquidated;

(h) in the execution of judgments or orders of courts;
(i) by reason of its being in a dangerous state or injurious
to the health of human beings, animals or plants;

(j) in consequence of any law with respect to the
limitation of actions, acquisitive prescription, derelict
land, treasure trove, mortmain or the rights of
succession competent to the Government of Malta; or

(k) for so long only as may be necessary for the purposes
of any examination, investigation, trial or inquiry or,
in the case of land, the carrying out thereon -

(i) of work of soil conservation or the conservation
of other natural resources of any description or
of war damage reconstruction; or

(ii) of agricultural development or improvement
which the owner or occupier of the land has been
required and has without reasonable and lawful
excuse refused or failed to carry out.

(3) Nothing in this article shall be construed as affecting the
making or operation of any law so far as it provides for vesting in
the Government of Malta the ownership of any underground
minerals, water or antiquities.

(4) Nothing in this article shall be construed as affecting the
making or operation of any law for the compulsory taking of
possession in the public interest of any property, or the compulsory
acquisition in the public interest of any interest in or right over
property, where that property, interest or right is held by a body
corporate which is established for public purposes by any law and
in which no monies have been invested other than monies provided
by any legislature in Malta.

38. (1) Except with his own consent or by way of parental
discipline, no person shall be subjected to the search of his person
or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law
shall be held to be inconsistent with or in contravention of this
article to the extent that the law in question makes provision -

(a) that is reasonably required in the interest of defence,
public safety, public order, public morality or decency,
public health, town and country planning, the
development and utilisation of mineral resources, or
the development and utilisation of any property in
such a manner as to promote the public benefit;

(b) that is reasonably required for the purpose of
promoting the rights or freedoms of other persons;

(c) that authorises a department of the Government of
Malta, or a local government authority, or a body
corporate established by law for a public purpose, to
enter on the premises of any person in order to inspect
those premises or anything thereon for the purpose of
any tax, rate or duty or in order to carry out work
connected with any property or installation which is
lawfully on those premises and which belongs to that
Government, that authority, or that body corporate, as the case may be; or

(d) that authorises, for the purpose of enforcing a judgment or order of a court, the search of any person or property by order of a court or entry upon any premises by such order, or that is necessary for the purpose of preventing or detecting criminal offences,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

39. (1) Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Any court or other adjudicating authority prescribed by law for the determination of the existence or the extent of civil rights or obligations shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(3) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights or obligations before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(4) Nothing in sub-article (3) of this article shall prevent any court or any authority such as is mentioned in that sub-article from excluding from the proceedings persons other than the parties thereto and their legal representatives -

(a) in proceedings before a court of voluntary jurisdiction and other proceedings which, in the practice of the Courts in Malta are, or are of the same nature as those which are, disposed of in chambers;

(b) in proceedings under any law relating to income tax; or

(c) to such extent as the court or other authority -

(i) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice; or

(ii) may be empowered or required by law to do so in the interests of defence, public safety, public order, public morality or decency, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings.

(5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty:
Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this sub-article to the extent that the law in question imposes upon any person charged as aforesaid the burden of proving particular facts.

(6) Every person who is charged with a criminal offence -

(a) shall be informed in writing, in a language which he understands and in detail, of the nature of the offence charged;

(b) shall be given adequate time and facilities for the preparation of his defence;

(c) shall be permitted to defend himself in person or by a legal representative and a person who cannot afford to pay for such legal representation as is reasonably required by the circumstances of his case shall be entitled to have such representation at the public expense;

(d) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance of witnesses subject to the payment of their reasonable expenses, and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

(e) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(7) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(8) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence which is severer in degree or description than the maximum penalty which might have been imposed for that offence at the time when it was committed.

(9) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence save upon the order of a superior court made in the
course of appeal or review proceedings relating to the conviction or acquittal; and no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence:

Provided that nothing in any law shall be held to be inconsistent with or in contravention of this sub-article by reason only that it authorises any court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so however that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(10) No person who is tried for a criminal offence shall be compelled to give evidence at his trial.

(11) In this article "legal representative" means a person entitled to practise in Malta as an advocate or, except in relation to proceedings before a court where a legal procurator has no right of audience, a legal procurator.

40. (1) All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship.

(2) No person shall be required to receive instruction in religion or to show knowledge or proficiency in religion if, in the case of a person who has not attained the age of sixteen years, objection to such requirement is made by the person who according to law has authority over him and, in any other case, if the person so required objects thereto:

Provided that no such requirement shall be held to be inconsistent with or in contravention of this article to the extent that the knowledge of, or the proficiency or instruction in, religion is required for the teaching of such religion, or for admission to the priesthood or to a religious order, or for other religious purposes, and except so far as that requirement is shown not to be reasonably justifiable in a democratic society.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of sub-article (1), to the extent that the law in question makes provision that is reasonably required in the interests of public safety, public order, public morality or decency, public health, or the protection of the rights and freedoms of others, and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society.

41. (1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from
interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of sub-article (1) of this article to the extent that the law in question makes provision -

(a) that is reasonably required -

(i) in the interests of defence, public safety, public order, public morality or decency, or public health; or

(ii) for the purpose of protecting the reputations, rights and freedoms of other persons, or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, protecting the privileges of Parliament, or regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of communication, public exhibitions or public entertainments; or

(b) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) Anyone who is resident in Malta may edit or print a newspaper or journal published daily or periodically:

Provided that provision may be made by law -

(a) prohibiting or restricting the editing or printing of any such newspaper or journal by persons under twenty-one years of age; and

(b) requiring any person who is the editor or printer of any such newspaper or journal to inform the prescribed authority to that effect and of his age and to keep the prescribed authority informed of his place of residence.

(4) Where the police seize any edition of a newspaper as being the means whereby a criminal offence has been committed they shall within twenty-four hours of the seizure bring the seizure to the notice of the competent court and if the court is not satisfied that there is a prima facie case of such offence, that edition shall be returned to the person from whom it was seized.

(5) No person shall be deprived of his citizenship under any provisions made under article 30(1) (b) of this Constitution or of his juridical capacity by reason only of his political opinions.
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42. (1) Except with his own consent or by way of parental discipline no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right peacefully to assemble freely and associate with other persons and in particular to form or belong to trade or other unions or associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision -

(a) that is reasonably required -

(i) in the interests of defence, public safety, public order, public morality or decency, or public health; or

(ii) for the purpose of protecting the rights or freedoms of other persons; or

(b) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) For the purposes of this article, any provision in any law prohibiting the holding of public meetings or demonstrations in any one or more particular cities, towns, suburbs or villages shall be held to be a provision which is not reasonably justifiable in a democratic society.

43. (1) Extradition is only permitted in pursuance of arrangements made by treaty and under the authority of a law.

(2) No person shall be extradited for an offence of a political character.

(3) No citizen of Malta shall be removed from Malta except as a result of extradition proceedings or under any such law as is referred to in article 44(3) (b) of this Constitution.

(4) The provisions made by or under the Extradition Act*, as for the time being in force, for the removal of persons from Malta to another Commonwealth country to undergo trial or punishment in that country in respect of an offence committed in that country and any general arrangements for the extradition of persons between Commonwealth countries to which Malta for the time being adheres shall be deemed, for the purposes of sub-article (1) of this article, to be arrangements made by treaty, and sub-article (2) shall not apply in relation to the removal or extradition of a person under such provisions or arrangements.

44. (1) No citizen of Malta shall be deprived of his freedom of movement, and for the purpose of this article the said freedom means the right to move freely throughout Malta, the right to reside in any part of Malta, the right to leave and the right to enter Malta.

*This Act has replaced the Extradition (Commonwealth Countries) Act, 1970.
(2) Any restriction on a citizen’s freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this article.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision -

(a) for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or decency, or public health and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

(b) for the imposition of restrictions on the freedom of movement of any citizen of Malta who is not a citizen by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000;

(c) for the imposition of restrictions upon the movement or residence within Malta of public officers; or

(d) for the imposition of restrictions on the right of any person to leave Malta that are reasonably required in order to secure the fulfilment of any obligation imposed on that person by law and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) For the purposes of this article, any person -

(a) who has emigrated from Malta (whether before, on or after the appointed day) and, having been a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000, has ceased to be such a citizen; or

(b) who emigrated from Malta before the appointed day and, but for his having ceased to be a citizen of the United Kingdom and Colonies before that day, would have become a citizen of Malta by virtue of article 3(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000; or

(c)* who is the spouse of a person mentioned in paragraph (a) or (b) of this sub-article or of a person who is a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000, and who has been married to

*see article 5 of Act XIII of 2001.
that person for at least five years and is living with that
person, or is the child under twenty-one years of age of
such a person; or

(d) who is the widow or the widower of a person
mentioned in paragraph (a) or paragraph (b) of this
subarticle or of a person who at the time of his or her
death was a citizen of Malta by virtue of article 3(1) or
of article 5(1) of the Maltese Citizenship Act as in
force upon the coming into force of the Maltese
Citizenship (Amendment) Act, 2000, and who was still
living with him or her at the time of his or her death
and had been married to that person for at least five
years or who would, but for the death of that person,
have been so married for at least five years, or is the
child under twenty-one years of age of such a person,
shall be deemed to be a citizen of Malta by virtue of article 3(1) or
of article 5(1) of the Maltese Citizenship Act as in force upon the

Provided that if the Minister responsible for matters
relating to Maltese citizenship at any time by order declares that it
is contrary to the public interest that a spouse as is mentioned in
paragraph (c), or a widow or widower as is mentioned in paragraph
(d), or a child over eighteen years of age as is mentioned in
paragraph (c) or (d) is to be so deemed, or to continue to be so
deemed, such spouse, widow, widower or child, as the case may be,
shall thereupon cease to be deemed to be a citizen of Malta as
aforesaid:

Provided further that the Minister responsible for matters
relating to Maltese citizenship shall not be required to assign any
reason for the issue of any order referred to in the immediately
preceding proviso, and the decision of the Minister on any such
order shall not be subject to appeal to or review in any court.

(5) If any person whose freedom of movement has been
restricted by virtue of such a provision as is referred to in sub-
article (3)(a) of this article so requests at any time during the
period of that restriction not earlier than six months after the order
was made or six months after he last made such request, as the case
may be, his case shall be reviewed by an independent and impartial
tribunal established by law composed of a person or persons each
of whom holds or has held judicial office or is qualified to be
appointed to such office in Malta:

Provided that a person whose freedom of movement has
been restricted by virtue of a restriction which is applicable to
persons generally or to general classes of persons shall not make a
request under this sub-article unless he has first obtained the
consent of the Civil Court, First Hall.

(6) On any review by a tribunal in pursuance of this article of
the case of a person whose freedom of movement has been
restricted the tribunal may make recommendations concerning the
necessity or expediency of continuing the restriction to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

45. (1) Subject to the provisions of sub-articles (4), (5) and (7) of this article, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of sub-articles (6), (7) and (8) of this article, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this article, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed, sex, sexual orientation or gender identity whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Sub-article (1) of this article shall not apply to any law so far as that law makes provision -

(a) for the appropriation of public revenues or other public funds; or

(b) with respect to persons who are not citizens of Malta; or

(c) with respect to adoption, marriage, dissolution of marriage, burial, devolution of property on death or any matters of personal law not herebefore specified; or

(d) whereby persons of any such description as is mentioned in sub-article (3) of this article may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description and to any other provision of this Constitution, is reasonably justifiable in a democratic society; or

(e) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency;

Provided that paragraph (c) of this sub-article shall not apply to any law which makes any provision that is discriminatory, either of itself or in its effect by affording different treatment to different persons attributable wholly or mainly to their respective description by sex.
(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of sub-article (1) of this article to the extent that it makes provision:

(a) with respect to qualifications for service or conditions of service in any disciplined force; or

(b) with respect to qualifications (not being qualifications specifically relating to sex, sexual orientation or gender identity) for service as a public officer or for service of a local government authority or a body corporate established for public purposes by any law.

(6) Sub-article (2) of this article shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in sub-article (4) or (5) of this article.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision (not being provisions specifically relating to sex) whereby persons of any such description as is mentioned in sub-article (3) of this article may be subjected to any restriction on the rights and freedoms guaranteed by articles 38, 40, 41, 42 and 44 of this Constitution, being such a restriction as is authorised by article 38(2), 40(2), 41(2), 42(2) or 44(3).

(8) Nothing in sub-article (2) of this article shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(9) A requirement, however made, that the Roman Catholic Apostolic Religion shall be taught by a person professing that religion shall not be held to be inconsistent with or in contravention of this article.

(10) Until the expiration of a period of two years commencing on the 1st July, 1991, nothing contained in any law made before the 1st July, 1991, shall be held to be inconsistent with the provisions of this article, in so far as that law provides for different treatment to different persons attributable wholly or mainly to their respective description by sex.

(11) Nothing in the provisions of this article shall apply to any law or anything done under the authority of a law, or to any procedure or arrangement, in so far as such law, thing done, procedure or arrangement provides for the taking of special measures aimed at accelerating de facto equality between men and women, and in so far only as such measures, taking into account the social fabric of Malta, are shown to be reasonably justifiable in a democratic society.

46. (1) Subject to the provisions of sub-articles (6) and (7) of this article, any person who alleges that any of the provisions of articles 33 to 45 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him, or such other
person as the Civil Court, First Hall, in Malta may appoint at the
instance of any person who so alleges, may, without prejudice to
any other action with respect to the same matter that is lawfully
available, apply to the Civil Court, First Hall, for redress.

(2) The Civil Court, First Hall, shall have original jurisdiction
to hear and determine any application made by any person in
pursuance of sub-article (1) of this article, and may make such
orders, issue such writs and give such directions as it may consider
appropriate for the purpose of enforcing, or securing the
enforcement of, any of the provisions of the said articles 33 to 45
(inclusive) to the protection of which the person concerned is
entitled:

Provided that the Court may, if it considers it desirable so to
do, decline to exercise its powers under this sub-article in any case
where it is satisfied that adequate means of redress for the
contravention alleged are or have been available to the person
concerned under any other law.

(3) If in any proceedings in any court other than the Civil
Court, First Hall, or the Constitutional Court any question arises as
to the contravention of any of the provisions of the said articles 33
to 45 (inclusive), that court shall refer the question to the Civil
Court, First Hall, unless in its opinion the raising of the question is
merely frivolous or vexatious; and that court shall give its decision
on any question referred to it under this sub-article and, subject to
the provisions of sub-article (4) of this article, the court in which
the question arose shall dispose of the question in accordance with
that decision.

(4) Any party to proceedings brought in the Civil Court, First
Hall, in pursuance of this article shall have a right of appeal to the
Constitutional Court.

(5) No appeal shall lie from any determination under this
article that any application or the raising of any question is merely
frivolous or vexatious.

(6) Provision may be made by or under an Act of Parliament
for conferring upon the Civil Court, First Hall, such powers in
addition to those conferred by this article as are necessary or
desirable for the purpose of enabling the Court more effectively to
exercise the jurisdiction conferred upon it by this article.

(7) Rules of Court making provision with respect to the
practice and procedure of the Courts of Malta for the purposes of
this article may be made by the person or authority for the time
being having power to make rules of court with respect to the
practice and procedure of those Courts, and shall be designed to
secure that the procedure shall be by application and that the
hearing shall be as expeditious as possible.

47. (1) In this Chapter, save where the context otherwise
requires, the following expressions shall have the following
meanings respectively, that is to say -

"contravention", in relation to any requirement, includes a failure
to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law in Malta other than a court constituted by or under a disciplinary law and in articles 33 and 35 of this Constitution includes, in relation to an offence against a disciplinary law, a court so constituted;

"disciplinary law" means a law regulating the discipline - 
(a) of any disciplined force; or
(b) of persons serving prison sentences;

"disciplined force" means - 
(a) a naval, military or air force of the Government of Malta;
(b) the Malta Police Force;
(c) any other police force established by law in Malta;
(d) the Malta prison service;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) In this Chapter "period of public emergency" means any period during which -

(a) Malta is engaged in any war; or
(b) there is in force a proclamation by the President declaring that a state of public emergency exists; or
(c) there is in force a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the Members of the House declaring that democratic institutions in Malta are threatened by subversion.

(3) (a) Where any proclamation of emergency has been made, the occasion therefor shall forthwith be communicated to the House of Representatives and, if the House is then separated by such adjournment or prorogation as will not expire within ten days the President shall by proclamation summon it to meet within five days and it shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or prorogued to that day.

(b) A proclamation of emergency shall, unless it is sooner revoked by the President, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following paragraph, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(c) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of this paragraph) a resolution is passed by the House of Representatives approving its continuance in force for a further period, not exceeding three months, beginning on the date on which it would otherwise expire,
the proclamation shall, if not sooner revoked, continue in force for that further period.

(4) A resolution such as is referred to in paragraph (c) of sub-article (2) of this article shall, unless it is sooner revoked by the House of Representatives, cease to be in force at the expiration of twelve months beginning on the date on which it was passed or such shorter period as may be specified therein, but without prejudice to the passing of another resolution by the House of Representatives in the manner prescribed by that paragraph at or before the end of that period.

(5) In relation to any person who is a member of a disciplined force raised under any law in force in Malta, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than articles 33, 35 and 36.

(6) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Malta, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(7) Until the expiration of a period ending on the 30th June, 1993, nothing contained in any such law as is specified in the First Schedule to this Constitution and, until the expiration of a period of three years commencing with the appointed day, nothing contained in any other law made before the appointed day shall be held to be inconsistent with the provisions of articles 33 to 45 (inclusive) of this Chapter and, subject as aforesaid, nothing done under the authority of any such law shall be held to be done in contravention of those articles.

(8) Where any provision of law enacted before the appointed day is held to be inconsistent with any of the provisions of articles 33 to 45 (inclusive) of this Chapter, no person shall be entitled to compensation in respect of anything done under the authority of that provision before it was so held to be inconsistent.

(9) Nothing in article 37 of this Constitution shall affect the operation of any law in force immediately before 3rd March 1962 or any law made on or after that date that amends or replaces any law in force immediately before that date (or such a law as from time to time amended or replaced in the manner described in this sub-article) and that does not -

(a) add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired;

(b) add to the purposes for which or circumstances in which such property may be taken possession of or acquired;

(c) make the conditions governing entitlement to compensation or the amount thereof less favourable to any person owning or interested in the property; or
tary Secretary, a member of, or a candidate for election to, the House of Representatives, a member of a local government authority or if he is a public officer.

(4) A member of the Public Service Commission shall not, within a period of three years commencing with the day on which he last held office as a member, be eligible for appointment to or to act in any public office.

(5) Subject to the provisions of this article, the office of a member of the Public Service Commission shall become vacant -

(a) at the expiration of five years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) A member of the Public Service Commission may be removed from office by the President, acting in accordance with the advice of the Prime Minister, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(7) If the office of a member of the Public Service Commission is vacant or if a member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition, may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Commission; and any person so appointed shall, subject to the provisions of sub-articles (5) and (6) of this article, cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

110. (1) Subject to the provisions of this Constitution, power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in any such offices shall vest in the Prime Minister, acting on the recommendation of the Public Service Commission:

Provided that the Prime Minister may, acting on the recommendation of the Public Service Commission, delegate in writing, subject to such conditions as may be specified in the instrument of delegation, any of the powers referred to in this sub-article to such public officer or other authority as may be specified in that instrument.

(2) A delegation of a power under this article -

(a) shall be without prejudice to the exercise of that power by the Prime Minister acting on the recommendation of the Public Service Commission;

(b) may authorise the public officer or other authority
CHAPTER 217

IMMIGRATION ACT

To restrict, control and regulate immigration into Malta and to make provision for matters ancillary thereto.

21st September, 1970


ARRANGEMENT OF ACT

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1. The short title of this Act is the Immigration Act.

2. In this Act, unless the context otherwise requires -

   "Board" means the Immigration Appeals Board constituted by article 25A;

   "Border Agreement" means an agreement to which Malta is a party or any rule in or under the Treaty providing for common border controls and free entry and exit of persons lawfully with the territory, into and from each of the territories of the Member States or States parties to the agreement, and Border Agreement State and citizen of a Border Agreement State shall be construed as such;

   "carrier" means any person whose occupation is to provide passenger transport by air, sea or land;

   "citizen of a Member State" means a citizen of a state party to the Treaty;

   "dependant" in relation to another person means -

   (a) the child or step-child of such person, if the child or the step-child is under the age of twenty-one years;

   (b) an adopted child under the age of twenty-one years, having been adopted by such person in a manner recognised by law;

   (c) a parent or grandparent of such person who proves to the satisfaction of the Principal Immigration Officer that he is wholly maintained by the said person;

   (d) any other member of the family as may be prescribed by the Minister;

   "deportation order" means an order made under article 22;

   "to embark" includes departure by any form of conveyance;

   "European Union" has the meaning assigned to it in the European Union Act;

   "exempt person" means any person to whom Part IV of this Act does not apply in accordance with article 4 of the same Act;

   "implied condition" means a condition referred to in article 11;

   "keeper" where used in relation to a hotel means a hotel-keeper as defined in the Hotels and Catering Establishments Act, and, where used in relation to premises where accommodation is provided for reward, includes any person who for reward receives any other person to lodge in the premises either on his own behalf or as a manager or otherwise on behalf of any other person;

   "to land" means to arrive or to enter by any form of conveyance and references to landing, unless the context otherwise requires, include references to attempting to land;

   "Malta" means the Island of Malta, the Island of Gozo and the
other islands of the Maltese Archipelago;

"master of a vessel" includes the captain of an aircraft;

"member of a crew" means any person employed in the working or service of a vessel;

"Minister" means the Minister responsible for immigration;

"passenger" means any person, other than a member of a crew, travelling or seeking to travel on board a vessel;

"passport" means a passport referring to the person who is required to produce the same, furnished with a photograph of such person, which is valid on the date on which the same person seeks entry into Malta and is not due to expire before the proposed date of departure of the same person from Malta, and includes any other similar document establishing the identity and nationality of the person to whom it refers to the satisfaction of the Principal Immigration Officer;

"port" means any place where a person lands in or embarks from Malta and includes an airport;

"prescribed" means prescribed by regulations made under this Act;

"Principal Immigration Officer" means the person appointed to such office by the Prime Minister under article 3, and includes, within the limits of any authority granted by the Principal Immigration Officer under article 3(3), any public officer acting under such authority;

"removal order" means an order issued by the Principal Immigration Officer or the Immigration Appeals Board in accordance with article 14, or the Court of Appeal under article 25A as the case may be;

"residence permit" means a permit issued under article 7(1);

"Schengen acquis" means the Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders of the 14 June 1985 and the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, and includes all other acts building upon it or otherwise related to it, as well as related agreements.

"the Treaty" has the same meaning assigned to it in the European Union Act;

"vessel" includes aircraft, but does not include a vessel belonging to, or in the service of, the military, naval or air force of any country.
3. (1) The Prime Minister shall, by notice in the Gazette, appoint a public officer to be the Principal Immigration Officer for the purposes of this Act.

(2) The Principal Immigration Officer shall have such powers and duties as are conferred or imposed on him by or under this Act or as may be prescribed for giving effect to this Act:

Provided that in the exercise of his functions under this Act, the Principal Immigration Officer shall act in accordance with the general or special directions of the Minister:

Provided further that it shall not be lawful for any person to enquire in any court whether the Principal Immigration Officer has actually received, or acted in accordance with, any such directions.

(3) The Principal Immigration Officer may authorise in writing any public officer to exercise or perform on his behalf any powers (except the power granted by this sub-article) or duties under this Act or regulations made thereunder.

(4) Authority under the last preceding sub-article may be granted either personally to a public officer or impersonally to any public officer for the time being performing any specific duties in the public service.

PART II
EXEMPT PERSONS

4. (1) The provisions of Part IV of this Act shall not apply to any person -

(a) who is a citizen of Malta; or

(b) who, in accordance with article 44(4) of the Constitution of Malta, is deemed to be a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act; or

(c) who is entitled to immunities and privileges by virtue or under any provision of the Diplomatic Immunities and Privileges Act; or

(d) 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

(e) who is in Malta in an advisory or consultative capacity to the Government on invitation of the same; or

(f) who is a dependant of any person referred to in the foregoing paragraphs; or

(g) who is the spouse of any person referred to in any of the foregoing paragraphs and is still married to and living with that person; and

(h) who is the widow or widower of any person mentioned...
in paragraph (a) or (b) and at the time of his or her death was still living with that person:

Provided that the spouse or the dependent of a person referred to under paragraphs (d) and (e) shall not in Malta exercise any profession or occupation or hold any appointment or be employed by any other person or engage in business without, and other than in accordance with the conditions of, a licence from the Minister which the latter may at any time vary or withdraw as he may deem fit, and provided further that such dependant shall cease to be an exempt person if he contravenes this provision or if he does not comply with any of the conditions contained in such licence.

(2) The Minister may by order to be notified to any person referred to in subarticle (1)(g) and (h) hereof, not being a person to whom subarticle (1)(a) to (f) hereof may refer, declare such person to be no longer an exempt person, if the Minister is satisfied that the grant of such an exemption to such person is not in the public interest, and upon the issue of such an order the provisions of Part III of this Act shall apply to such person. Notwithstanding the foregoing provisions of this sub-article such Order may also be notified to, and apply in relation to, any person referred to in subarticle (1)(f) being a dependant over the age of eighteen years.

(3) The Minister shall not be required to assign any reason for the issue of any order referred to in subarticle (2) and the decision of the Minister on any such order shall not be subject to appeal to or review in any court.

PART III
Special Provisions

4A. (1) Notwithstanding any other provisions of this Act, the Minister may make regulations to give effect to the Treaty or any Border Agreement to which Malta may be a party and without prejudice to the generality of the foregoing, may make regulations in order to:

(a) grant and regulate the right of any citizens of a Member State or their dependants to enter, remain and reside in, and leave Malta;

(b) grant and regulate the right of persons mentioned in the preceding paragraph to seek employment and work in Malta and to establish services and, or provide or receive such services in Malta;

(c) grant and regulate the rights mentioned in the preceding paragraphs to any person and his dependants who, though not being a person mentioned in paragraph (a), is lawfully in the territory of any state which is bound by a Border Agreement.

(2) Any right granted under this Part shall always be subject to such limitations as may be reasonably justified on grounds of
public policy, public security and public health.

PART IV

PROHIBITED IMMIGRANTS

5. (1) Any person, other than one having the right of entry, or of entry and residence, or of movement or transit under the preceding Parts, may be refused entry, and if he lands or is in Malta without leave from the Principal Immigration Officer, he shall be a prohibited immigrant.

(2) Notwithstanding that he has landed or is in Malta with the leave of the Principal Immigration Officer or that he was granted a residence permit, a person shall, unless he is exempted under this Act from any of the following conditions or special rules applicable to him under the foregoing provisions of this Act, be a prohibited immigrant also -

(a) if he is unable to show that he has the means of supporting himself and his dependants (if any) or if he or any of his dependants is likely to become a charge on the public funds; or

(b) if he is suffering from mental disorder or is a mental defective; or

(c) if, having landed in Malta pursuant to or under any regulation made under articles 44 and/or 50 of the Prevention of Disease Ordinance, he is still in Malta after the lapse of the period of fifteen days from the day on which the Superintendent of Public Health certifies in writing that the stay of such person in Malta is no longer required under and for the purpose of such regulation; or

(d) if he is found guilty by a court of criminal jurisdiction in Malta of an offence against any of the provisions of the White Slave Traffic (Suppression) Ordinance or of the Dangerous Drugs Ordinance or of a crime, other than involuntary homicide or involuntary bodily harm, which, in the case of a first crime committed by such person, is punishable with imprisonment for a term of not less than one year or, in the case of a second or subsequent crime committed by such person, is punishable with imprisonment for a term of not less than three months; or

(e) if he contravenes any of the provisions of this Act or of any regulations made thereunder; or

(f) if he does not comply or ceases to comply with any of the conditions, including an implied condition, under which he was granted leave to land or to land and remain in Malta or was granted a residence permit; or

(g) if any circumstance which determined the granting of
leave to land or to land and remain in Malta or the extension of such leave or the granting of a residence permit ceases to exist; or

(h) if such person is a prostitute; or

(i) if he is a dependant of a person who is a prohibited immigrant under any of the provisions of this sub-article.

6. (1) Without prejudice to any rights arising from the preceding Part(s), for the purposes of this Act, the Principal Immigration Officer may -

(a) grant leave to land or leave to land and remain in Malta to any member of a crew intending to continue his journey in the vessel by which he arrives for the period of the vessel's stay in port and on condition that he leaves in the same vessel;

(b) grant leave to land or leave to land and remain to any other person arriving in Malta, under such conditions and for such period as the Principal Immigration Officer may deem proper to establish;

(c) grant extensions of the period referred to in the last preceding paragraph by such further periods as in each case the Principal Immigration Officer may deem proper to grant and under such conditions, whether similar to those previously imposed or not, as he may deem proper to establish:

Provided that, unless it is otherwise expressly established, any extension shall be deemed to have been granted under the same conditions which applied, and for a period of the same duration as the period which expired, before such extension was granted.

(2) Unless the Principal Immigration Officer expressly specifies a longer or shorter period, leave granted under paragraph (b) of the last preceding sub-article shall be deemed to have been granted for twenty-four hours in the case of leave to land and for three calendar months in the case of leave to land and remain in Malta.

(3) Notwithstanding the provisions of sub-article (1)(a), where the vessel therein referred to is an aircraft, a member of the crew of such aircraft need not necessarily continue his journey in the aircraft by which he arrived, subject to his leaving Malta within three days of his arrival.

(4) The Principal Immigration Officer shall not refuse leave to land and remain in Malta to any person in respect of whom two medical practitioners of whom at least one shall be a government medical officer certify that such person needs immediate medical or surgical treatment which cannot be deferred without prejudice to his health:

Provided that such leave shall be deemed to have been granted until, and to expire on, the seventh day of the date of a
Immigration

Residence permit.
Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX. 2000.7;
XXIII. 2002.9.

Visas.
Substituted by:
XXIII. 2002.10.

certificate made by a government medical officer to the effect that there is no longer any necessity that such person should remain in Malta for the purpose of or in connection with such treatment.

7. (1) Without prejudice to the provisions of the preceding Parts, the Minister may issue, subject to such conditions as he may deem proper to establish, a residence permit to any person who makes an application for retirement, settlement or an indefinite stay in Malta.

(2) Subject to the provisions of this Act, a residence permit shall confer on the person to whom it is issued the right to land and to remain permanently or indefinitely in Malta.

(3) Any residence permit issued under this Act may be revoked by the Minister for the following reasons:

(a) when the permit was obtained on the basis of fraud, or omission on the part of the resident at the time of his application for a residence permit of a material fact which, had it been known then, would have reasonably justified the Minister to refuse the application for such permit;

(b) when, following the grant of a residence permit, the said resident, commits, whether in Malta or outside Malta, a serious crime which, had it been committed prior to the granting of such permit, would have reasonably justified the refusal of such permit by the Minister.

(4) Any person aggrieved by such decision shall have a right to appeal to the Board within ten days from when he is notified of such revocation.

(5) The Minister may make regulations to implement the provision of this article, including, without prejudice to the generality of the foregoing, to regulate any right of appeal to the Board appertaining to a person aggrieved by a decision of the Minister, and any application for residents in Malta to bring to Malta any of their dependants to reside with them.

8. (1) Without prejudice to the rights of entry and residence envisaged by the preceding Parts, and to the powers of the Principal Immigration Officer to issue a visa at the border under this Act and in regulations made thereunder, the Principal Immigration Officer shall refuse leave to enter Malta to any person seeking to enter Malta who, in accordance with the provisions of this Act, must be in possession of a visa and who is not in possession of such a visa as is provided for in this article.

(2) The Minister may make regulations in order to -

(a) list the countries whose nationals will be required to be in possession of a visa for any stay for such period of time as may be prescribed, or whose nationals will be exempted from such requirement;

(b) regulate all aspects of the issue of visas or other forms
of authorisation and make provision for different types of visa including visas for single or multiple entry or re-entry;

(c) make provision for and regulate the issue of visas at the border;

(d) make provision for and regulate the revocation of visas;

(e) regulate the issue and revocation of emergency travel documents to persons who hold the nationality of such states as may be prescribed.

9. (1) Without prejudice to any regulations made under Part III of this Act, leave to land or to land and remain in Malta shall be signified either by a written permit delivered to, or by an appropriate endorsement on the passport of, the person concerned, but the conditions attached to such leave may be contained in a separate document delivered to such person.

(2) The provisions of the last preceding sub-article shall not apply to leave granted for the purposes of sub-article (1)(a), or of article 6(3).

10. (1) Where leave to land is refused to any person arriving in Malta on an aircraft, such person may be placed temporarily on land and detained in some place approved by the Minister and notified by notice in the Gazette until the departure of such aircraft is imminent.

(2) Where leave to land is refused to any person arriving in Malta by any other means, such person at his own request may, with the leave of the Principal Immigration Officer, be placed temporarily on shore and detained in some place approved by the Minister and notified by notice in the Gazette:

Provided that he shall be returned to the vessel by which he is to leave Malta immediately that he makes a request to that effect or that the Principal Immigration Officer so directs, whichever is the earlier.

(3) Any person, while he is detained under sub-article (1) or (2), shall be deemed to be in legal custody and not to have landed.

11. (1) It shall be an implied condition of any leave granted to any person under article 6(1)(a) or, saving the provisions of Part III, of a residence permit issued to any person under article 7(1) that such person shall not in Malta exercise any profession or occupation or hold any appointment or be employed by any other person or engage in business without a licence from the Minister.

(2) It shall be an implied condition of any leave granted to any person under article 6(1)(b) or extended under paragraph (c), that such person shall not in Malta exercise any profession or occupation or hold any appointment or be employed by any other person without a licence from the Minister.

*See Legal Notice 193 of 1996.
(3) The Minister may grant a licence for any of the purposes mentioned in sub-article (1) or (2) for such period and under such conditions as he shall think fit and may at any time cancel or vary the conditions of any such licence.

12. (1) The conditions referred to in articles 6 and 7 may include the furnishing of such security in such form and of such amount, not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), as the Minister or the Principal Immigration Officer, as the case may be, may deem proper to require.

(2) Where the security required and furnished for the purpose of the preceding sub-article consists in the deposit of a sum, the
sum so deposited may be applied in meeting any charges incurred by public funds for the maintenance of the person in whose favour the security stands or of his dependants or incurred otherwise in connection with him or them while in Malta or for his or their deportation or repatriation, and the balance, if any, or the whole, if no part is applied as aforesaid, shall only be refunded upon the Principal Immigration Officer being satisfied that such balance or the whole deposit is no longer required for the purpose of ensuring compliance with the provisions of this Act or of any conditions imposed thereunder.

(3) Notwithstanding any other law to the contrary, no garnishee order shall be executed on any amount deposited, wherever this may be, for the purpose of the above security, or any part thereof, unless and before such amount or part thereof is due to be refunded in accordance with the last preceding sub-article.

13. (1) Nothing in article 11(2) shall prevent the Principal Immigration Officer from granting or extending leave to any person under article 6(1)(b) or (c) subject to the condition that such person is not to engage in Malta in any activity other than that falling within the declared purpose.

(2) For the purpose of this article, "declared purpose" means the purpose which any person requesting leave to land and remain in Malta declares to the Principal Immigration Officer and is accepted by the latter to be the purpose of his request:

Provided that the Principal Immigration Officer shall not accept as a declared purpose any activity for the exercise whereof a licence of the Minister is required under article 11(2).

14. (1) If any person is considered by the Principal Immigration Officer to be liable to removal as a prohibited immigrant under any of the provisions of article 5, the said Officer may issue a removal order against such person who shall have a right to appeal against such order in accordance with the provisions of article 25A:

Provided that in relation to any such person as may be prescribed by regulations made under article 4A and who entered Malta or is in Malta, a removal order shall only be issued following an application to that effect by the Principal Immigration Officer to
the Board which shall make such order upon being satisfied that such person is liable to expulsion under this Act. The provisions of article 25A shall mutatis mutandis apply to any order issued by the said Board under this proviso.

(2) Upon such order being made, such person against whom such order is made, shall be detained in custody until he is removed from Malta:

Provided that if the person in respect of whom an expulsion order has been made is subject to criminal proceedings for a crime punishable with imprisonment or is serving a sentence of imprisonment, the Minister may give such directions as to whether the whole or part of the sentence is to be served before the expulsion of such person from Malta, and, in default of such directions, such person shall be removed after completion of the sentence.

(3) Nothing in this article shall affect the obligation of any person who does not fulfil or who no longer fulfils the conditions of entry, residence or free movement to leave Malta voluntarily without delay.

(4) Removal of a person shall be to that person’s country of origin or to any other State to which he may be permitted entry, in particular under the relevant provisions of any applicable re-admission agreement concluded by Malta and in accordance with international obligations to which Malta may be party.

(5) Nothing in this article shall preclude or prejudice the application of Maltese law on the right to asylum and the rights of refugees and of Malta’s international obligations in this regard.

(6) On an application made by the Principal Immigration Officer to the Board, the Board, if satisfied that any expenses have been or will be incurred by the Government in connection with the maintenance, medical treatment or expulsion of a prohibited immigrant or his dependants, may issue an executive warrant against a prohibited immigrant and may also order the forfeiture of such amount of any moneys in his possession as is to be recovered. A warrant issued under this sub-article may be enforced in the same manner as a warrant issued in virtue of an executive title for a civil debt by a Court in the exercise of its civil jurisdiction. The partial recovery of expenses under this subarticle shall not prejudice the liability of any surety for the balance, nor shall the issue or execution of a warrant under this article be a condition precedent to the liability of a surety.

(7) The Minister may make regulations for the purpose of implementing the provisions of this article and in particular for further regulating the manner and procedure for, and the costs of, expulsion.
15. (1) A carrier by sea or air shall be obliged to take all necessary measures to ensure that a person carried by it to Malta is in possession of the travel documents and any visa or other authorisation required for entry into, or transit through, Maltese territory before transporting such person to Malta.

(2) At the request of the Principal Immigration Officer the carrier shall return a person refused entry on the grounds of not being in possession of any visa or document mentioned in the preceding subarticle, either to the State from which he was transported, or to the State which issued the travel document on which he travelled, if any, or to any other State to which he is guaranteed entry.

(3) At the request of the Principal Immigration Officer the carrier shall also return, as specified in subarticle (2), a third country national in transit through Malta if the carrier which was to take him to his country of destination refuses to take him on board or the authorities of the state of destination have refused him entry and have sent him back to Malta.

(4) A carrier which cannot return a person as laid down in subarticles (2) and (3), shall find the means of onward transportation immediately and bear the costs thereof, or, if immediate onward transportation is not possible, he shall assume responsibility for the costs of the stay and return of the person concerned.

(5) A carrier may not carry from any State to Malta a person who is not in possession of any travel document, visa or other special authorisation where required under this Act, required for his lawful entry into Malta and in case of such default such carrier shall be liable to pay to the Principal Immigration Officer such penalty as may be established by him, not being more than eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) for each person carried or such other maximum sum as may be prescribed by the Minister. Such penalty shall be recoverable by the Principal Immigration Officer, after the term within which an appeal to the Board may be entered, has elapsed without an appeal having been entered, or after the decision of such Board as a civil debt due to the Government and the provisions of article 466 of the Code of Organization and Civil Procedure shall, notwithstanding any other provision to the contrary, mutatis mutandis apply to such debt.

16. Any person who acts in contravention of article 5(1), or is reasonably suspected of having so acted, may be taken into custody without warrant by the Principal Immigration Officer or by any Police officer and while he is so kept in custody he shall be deemed to be in legal custody.

17. Notwithstanding any other law to the contrary, no removal order shall be obstructed nor shall the implementation of any such order be delayed by means of any warrant issued under the Code of Organization and Civil Procedure.

19. A person against whom a removal order is made or to whom the next following article applies shall be removed from Malta -

(a) if he is not a member of a crew, to the country of which he is a national or from which he embarked for Malta;

(b) if he is a member of a crew, to the country of which he is a national or where he was engaged:

Provided that the Minister may, at the request of such person, direct that he be removed to another country.

20. (1) Any person to whom this article applies shall be removed from Malta by the master of the vessel in which he arrived or, if directions for the purpose are given by the Minister or by the Principal Immigration Officer, by the owner or agents of that vessel.

(2) It shall be lawful (notwithstanding any intervening prosecution) for the Principal Immigration Officer or any Police officer to place any person to whom this article applies on board the vessel in which he arrived in Malta or on board any vessel belonging to the same owners for removal from Malta.

(3) This article shall apply to -

(a) any person to whom leave to land has been refused;

(b) any person who, not having been granted leave to land, is found on shore in Malta;

(c) any member of a crew who, having been granted leave to land or leave to land and remain in Malta under article 6(1)(a), is reasonably suspected of having acted or of being about to act in contravention of this Act:

Provided that this article shall not apply, in so far as it imposes an obligation on the master, owner or agents of the vessel in which a person arrived in Malta, if a period exceeding six months has elapsed since the date of the last landing of such person in Malta from that vessel.

21. The master of any vessel shall detain on board any person arriving in that vessel, whether member of a crew or passenger, to whom leave to land has been refused by the Principal Immigration Officer, while such vessel is in the territorial waters of Malta, and a person so detained shall be deemed to be in legal custody.

22. (1) Without prejudice to special provisions which may be made under Part III of this Act, the Minister may, if he deems it to be conducive to the public good, make a deportation order against any person.

(2) A deportation order may be made subject to any condition which the Minister may deem proper.

(3) Notwithstanding any other law to the contrary, no deportation order shall be obstructed, nor shall the implementation of such order be delayed, by means of any warrant issued under the Code of Organization and Civil Procedure.
(4) A person with respect to whom a deportation order is made shall leave Malta in accordance with the order and shall thereafter so long as the order is in force remain out of Malta.

(5) A person with respect to whom a deportation order is made may be detained in such manner as may be directed by the Minister until he leaves Malta and may be placed on board a vessel about to leave Malta, and shall be deemed to be in legal custody whilst so detained and until the vessel finally leaves Malta.

(6) The master of a vessel with adequate passenger facilities about to call at any port outside Malta shall, if so required by the Minister or by the Principal Immigration Officer, receive a person against whom a deportation order has been made and his dependants, if any, on board the vessel, and afford them against payment a passage to that port and proper accommodation and maintenance during the passage.

(7) The Minister may, if he thinks fit, apply any money or property of a person against whom a deportation order has been made in payment of the whole or any part of the expenses of or incidental to the voyage from Malta and of the maintenance until departure of that person and his dependants (if any).

23. (1) The Principal Immigration Officer shall recognise a decision of expulsion issued by another Member State in line with the provisions of Directive 2001/40/EC of the 28th May 2001 on the Mutual Recognition of Decisions on the Expulsion of Third Country Nationals and take the necessary measures to enforce such decision.

(2) The provisions of this article shall apply to decisions of expulsion, which have not been rescinded by the issuing Member State, in relation to:

(a) a third country national, whose expulsion is based on a serious and present threat to public order or to national security and safety, taken in the following cases:

(i) a conviction in the issuing Member State for an offence punishable by a penalty involving deprivation of liberty of at least one year;

(ii) the existence of serious grounds for believing that the third country national has committed serious criminal offences or the existence of solid evidence of his intention to commit such offences within the territory of a Member State;

(b) a third country national who is the subject of an expulsion decision based on failure to comply with national rules on the entry or residence of aliens.

(3) The provision of this article shall not apply to family members of persons who have exercised their right of free movement in accordance with the provisions of European Union and Maltese legislation.

(4) A third country national in whose regard a decision of expulsion has been issued as provided in sub-article (2) may be
taken into custody without warrant by the Principal Immigration Officer or by any Police officer and while he is so kept in custody he shall be deemed to be in legal custody.

(5) No expulsion decision issued by the Principal Immigration Officer or by the competent administrative authority of a Member State shall be obstructed by means of any warrant issued under the Code of Organization and Civil Procedure.

(6) The provisions of articles 14 and 25A shall apply to expulsion orders and the enforcement of expulsion orders taken against third country nationals.

24. If any person who has left Malta under a removal order or a deportation order at any time seeks leave to land or leave to land and remain in Malta or if he seeks to obtain a residence permit, he shall expressly declare in writing to the Principal Immigration Officer such circumstance and, if he fails to do so, any such leave or any residence permit granted to him shall be null and void and he shall, moreover, by reason only of such omission and without prejudice to the issue of a removal order or a deportation order under this Act, be guilty of an offence and liable, on conviction by the Court of Magistrates, to a fine (multa) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

25. (1) Any leave granted or extended under the Immigration (British Subjects) Ordinance, 1948, or the Aliens Ordinance, 1949*, for the purpose of allowing any person to land or to land and remain in Malta, shall be deemed to have been granted or extended for the unexpired portion of its duration under the provisions of this Act and this Act shall apply to such leave accordingly:

Provided that the conditions attached to such leave, unless modified by the Principal Immigration Officer, shall continue to apply.

(2) Any permit of work or employment granted or extended under one of the laws mentioned in sub-article (1), shall be deemed to have been granted or extended for the unexpired portion of its duration under article 11(3) and this Act shall apply accordingly:

Provided that the conditions attached to such permit, unless modified by the Minister shall continue to apply.

(3) Any person who has been granted under article 36 of The Immigration (British Subjects) Ordinance, 1948,* an exemption which has conferred on him the right to establish his permanent residence or residence for an indefinite period in Malta or who has been granted any corresponding right under any other provision of one of the laws mentioned in sub-article (1), shall be deemed to have been granted a residence permit and this Act shall apply accordingly:

*Repealed by article 37 of this Act as originally enacted and which is being omitted under the Statute Law Revision Act, 1980.
Provided that the conditions attached to the granting of any such exemption or corresponding right, unless modified by the Principal Immigration Officer, shall continue to apply in addition to the implied condition referred to in article 11(1).

(4) Any person, who has been ordinarily resident in Malta continuously for a period of at least fifteen years immediately before the coming into force of this Act and who is not a person falling under sub-article (1) or (3), shall be deemed to have been granted leave to land and remain in Malta under article 6(1)(b) for the period of one year from the coming into force of this Act and, save as provided in the next following sub-article, all the provisions of this Act shall apply accordingly.

(5) Without prejudice to the imposition of any conditions under article 11(3), sub-article (2) of the same article shall not apply, saving the provisions of any other law, to any person referred to in the last preceding sub-article during the said period of one year from the coming into force of this Act.

PART IV

GENERAL

25A. (1) (a) There shall be a board, to be known as the Immigration Appeals Board, hereinafter referred to as the Board consisting of a lawyer who shall preside, a person versed in immigration matters and another person, each of whom shall be appointed by the President acting on the advice of the Minister:

Provided that the Minister may by regulations prescribe that the Board shall consist of more than one division each composed of a Chairman and two other members as aforesaid.

(b) The Minister may make regulations to regulate the distribution by types of appeals or applications amongst the divisions of the Board.

(c) The Board shall have jurisdiction to hear and determine appeals or applications in virtue of the provisions of this Act or regulations made thereunder or in virtue of any other law.

(2) A member of the board shall be disqualified from hearing an appeal in such circumstances as would disqualify a judge in terms of Sub-Title II of Title II of Book Third of the Code of Organization and Civil Procedure; and in any such case either the member shall be substituted by another person appointed for the purpose by the President acting on the advice of the Minister, or the appeal, when there is more than one division of the Board in office, may be referred by order of the Board from one division of the Board to another.

(3) The members of the Board shall hold office for a period of three years, and shall be eligible for re-appointment.
(4) A member of the Board may be removed from office by the President acting on the advice of the Prime Minister, on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Board.

(5) Any person aggrieved by any decision of the competent authority under any regulations made under Part III, or in virtue of article 7, article 14 or article 15 may enter an appeal against such decision and the Board shall have jurisdiction to hear and determine such appeals.

(6) During the course of any proceedings before it, the Board, may, even on a verbal request, grant provisional release to any person who is arrested or detained and is a party to proceedings before it, under such terms and conditions as it may deem fit, and the provisions of Title IV of Part II of Book Second of the Criminal Code shall, mutatis mutandis apply to such request.

(7) Any appeal has to be filed in the Registry of the Board within three working days from the decision subject to appeal:

Provided that the period applicable for the filing of an appeal from the refusal, annulment or revocation of a visa shall be of fifteen days.

(8) The decisions of the Board shall be final except with respect to points of law decided by the Board regarding decisions affecting persons as are mentioned in Part III, from which an appeal shall lie within ten days to the Court of Appeal (Inferior Jurisdiction). The Rule Making Board established under article 29 of the Code of Organization and Civil Procedure may make rules governing any such appeal.

(9) The Board shall also have jurisdiction to hear and determine applications made by persons in custody in virtue of a deportation or removal order to be released from custody pending the determination of any application under the Refugees Act or otherwise pending their deportation in accordance with the following subarticles of this article.

(10) The Board shall only grant release from custody under subarticle (9) where in its opinion the continued detention of such person is taking into account all the circumstances of the case, unreasonable as regards duration or because there is no reasonable prospect of deportation within a reasonable time:

Provided that where a person, whose application for protection under the Refugees Act has been refused by a final decision, does not co-operate with the Principal Immigration Officer with respect to his repatriation to his country of origin or to any other country which has accepted to receive him, the Board may refuse to order that person’s release.

(11) The Board shall not grant such release in the following cases:

(a) when the identity of the applicant including his nationality has yet to be verified, in particular where the applicant has destroyed his travel or identification
documents or used fraudulent documents in order to
mislead the authorities;

(b) when elements on which any claim by applicant under
the **Refugees Act** is based, have to be determined,
where the determination thereof cannot be achieved in
the absence of detention;

(c) where the release of the applicant could pose a threat
to public security or public order.

(12) A person who has been released under the provisions of
subarticles (9) to (11) may, where the Principal Immigration
Officer is satisfied that there exists a reasonable prospect of
deposition or that such person is not co-operating with the
Principal Immigration Officer with respect to his repatriation to his
country of origin or to another country which has accepted to
receive him, and no proceedings under the **Refugees Act** are
pending, be again taken into custody pending his removal from
Malta.

(13) It shall be a condition of any release under subarticles (9) to
(12) that the person so released shall periodically (and in no case
less often than once every week) report to the immigration
authorities at such intervals as the Board may determine.

26. (1) The Prime Minister and the Minister may each
authorise in writing another Minister, a public officer not below the
rank of a Head of Department, or a body corporate established by
law, to exercise on his behalf all or any and the powers conferred
on him as Prime Minister or Minister, as the case may be, by this
Act, excluding in respect of the Prime Minister the powers
conferred by article 3(1) and in respect of the Minister responsible
for the interior, the powers conferred by the proviso to article 14(2)
and article 36:

Provided that the Prime Minister and the Minister may
each, as the case may be, authorise under this sub-article different
persons for different purposes.

(2) Any such authorisation and any repeal thereof shall be
published by notice in the Gazette and shall have effect from the
date of such publication unless a later date is indicated in the same
notice.

27. The Principal Immigration Officer shall have power to
enter or board any vessel and to detain and examine any person
arriving at or leaving any port of Malta whom he reasonably
supposes not to be an exempt person and to require the production
of any prescribed documents by such person, and shall have such
other powers and duties as are conferred upon him by or under this
Act or as may be prescribed for giving effect to this Act.

28. Every person landing or embarking in Malta shall be in
possession of a passport and shall furnish to the Principal
Immigration Officer the prescribed information and such other
information as the Principal Immigration Officer may deem proper
to require.
29. (1) The master of any vessel landing or embarking at any port in Malta passengers coming from or bound for a destination outside Malta shall furnish, to such person and in such manner as may be prescribed, a return giving the prescribed particulars with respect to any passengers and every passenger shall furnish to the master of the vessel any information required by him for the purpose of the return. The same return shall be furnished at the request of such person by the master of any other vessel arriving at any port in Malta from a port outside Malta.

(2) The master of any vessel arriving at any port in Malta from a port outside Malta shall furnish, to such person and in such manner as may be prescribed, a return giving the prescribed particulars with respect to any members of the crew.

(3) The particulars prescribed for the purpose of sub-article (1) or (2) in relation to the passengers or members of the crew of an aircraft may be different from those prescribed in relation to any other passengers or members of a crew.

30. Any person, not being an exempt person, who lands in Malta pursuant to or under any regulation made under articles 44 and/or 50 of the Prevention of Disease Ordinance shall be deemed to have landed and to be in Malta with the leave of the Principal Immigration Officer for the purpose of the regulation in pursuance whereof or under which he has so landed and such purpose shall be deemed to be the declared purpose referred to in article 13.

31. (1) It shall be the duty of the keeper of any premises to which this article applies to keep a register of all persons staying at the premises who are not exempt persons.

(2) The keeper of any premises to which this article applies shall, on the arrival of any person who is not an exempt person, ascertain and enter or cause to be entered in the register kept for the purpose the name and nationality of such person, together with the date of his arrival and the address from which he last came; and on departure of any such person the keeper of the premises shall enter or cause to be entered in the register the date of departure and the destination on departure of that person.

(3) The keeper of any premises to which this article applies shall also, if directions for the purpose are issued by the Minister, make to the Principal Immigration Officer such returns concerning the persons staying at the premises, at such times or intervals and in such form, as may be specified in such directions.

(4) It shall be the duty -

(a) of every person above the age of fourteen years staying at any premises to which this article applies to sign, when so required, a statement as to his nationality, and, if not an exempt person, to furnish and sign a statement of the particulars required under this article;

(b) of the keeper of any premises to which this article applies to require any person above the age of fourteen to furnish and sign a statement of the particulars required under this article.
years who stays at the premises to sign the statement and furnish the particulars required from him under this article and to preserve such statements (including any statements supplied under this article to any previous keeper of the premises) for a period of two years from the date when the statements were signed.

(5) Every register kept, and all particulars furnished, under this article, shall at all reasonable hours be open for inspection by any Police officer or by the Principal Immigration Officer.

(6) The Minister may prescribe the form in which a register is to be kept or statements furnished under this article.

(7) Any person who fails to comply with any of the provisions of this article shall be guilty of an offence and shall be liable, on conviction, to a fine (multa) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) but not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (4,658.75) or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(8) This article applies to any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward.

32. (1) Any person who -

(a) aids or assists any person to land or attempt to land in Malta, or to reside in Malta, contrary to the provisions of this Act, or any person to land or attempt to land, or to reside in, or to leave any other State contrary to the law on entry, residence and exit of that State, or conceals or harbours any person whom he knows, or has reasonable ground for believing, to be in Malta contrary to the provisions of this Act; or

(b) takes in his employment, or gives work to, any person who is not an exempt person and is not in possession of a licence granted to him for the purpose of such employment or work under the provisions of this Act, or otherwise aids or assists any person who is not an exempt person in the commission of an offence contemplated in article 23; or

(c) in relation to any information to be given under or for purposes of this Act, makes or causes to be made any false return, false statement or false representation; or

(d) forges any document or true copy of a document or an entry made in pursuance of this Act; or

(e) obstructs or impedes any person in the lawful exercise of his powers or duties under this Act; or

(f) without lawful authority uses or has in his possession any document required for the purposes of this Act which is forged; or

(g) contravenes any provision of this Act in respect of

which an offence is not established under any other article of this Act,
shall be guilty of an offence and shall be liable, on conviction by the Court of Magistrates, to a fine (malta) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, unless a greater punishment is established for such offence by another law.

(2) The provisions of the last preceding sub-article shall not apply to a person who conceals or harbours a person who is that person’s descendant, ascendant, spouse, brother or sister, for a period not in excess of seven days.

(3) Where the competent authority in Malta is requested by another State to prosecute for an offence under subarticle (1)(a), the competent authority shall first request the competent authority of the State making the request for prosecution to specify, by means of an official denunciation or a certificate, the provisions of law which the latter State considers to have been infringed.

33. In any proceedings under this Act -

(a) the burden of proof that a person is an exempt person or that a person is not a prohibited immigrant under the provision of article 5(2)(a) shall be upon that person;

(b) a document purporting to be a removal order or a deportation order shall be presumed, until the contrary is proved, to be the document which it purports to be;

(c) any order made under this Act shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date on which it purports to have been made.

34. (1) A person detained in custody under this Act, other than under article 10 or 22, but not serving a sentence of imprisonment, may be detained either in prison or in any place appointed for the purpose by the Minister by notice in the Gazette, but if detained in prison he shall be treated as a person awaiting trial.

(2) The Minister may make regulations for the management, control and discipline of any place appointed by him under sub-article (1) for the detention of persons, for the diet of the persons detained therein, and for the punishment of persons detained therein for any offence committed by them against such regulations:

Provided that such punishment may not exceed the punishment established in the Criminal Code for contraventions.

(3) The Minister may also make regulations to establish a body corporate or unincorporate which shall be responsible for keeping in detention persons liable to be kept in detention under the provisions of this Act or under regulations made thereunder and

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*See Legal Notices 20 of 1994 and 193 of 1996*
without prejudice to the generality of the aforesaid, such
regulations may make provision for any matter whatsoever
concerning the functions, funding, staffing, organization and
administration of such body as well as for any other matter deemed
necessary or expedient by the Minister to enable that body to carry
out its functions under the regulations and for any other purpose
consequential or ancillary to the aforesaid.

(4) The Minister may also make regulations to establish a body
corporate or unincorporate which shall be responsible for the
accommodation in open reception centres of persons who qualify
for such accommodation under the provisions of the Refugees Act,
or regulations made thereunder, and without prejudice to the
generality of the aforesaid, such regulations may make provision
for any matter whatsoever concerning the functions, funding,
staffing, organization and administration of such body as well as
for any other matter deemed necessary or expedient by the Minister
to enable that body to carry out its functions under the regulations
and for any other purpose consequential or ancillary to the
aforesaid.

35. (1) Notwithstanding anything in this Act or in any other
law contained, but subject to any provisions made under Part III of
this Act, the Minister may also prohibit the entry into Malta of any
person who, in the opinion of the Minister, is not provided with
suitable accommodation in the island.

(2) The last preceding sub-article shall not apply -

(a) to any person who is a citizen of Malta by virtue of article
22(1) or of article 25(1) of the Constitution of
Malta or who is deemed to be such a citizen under
article 44(4) of the said Constitution; and

(b) to any other citizen of Malta who -

(i) has emigrated from Malta;

(ii) was resident in Malta and has during the two
years immediately before emigrating been so
resident for a continuous period of one year or
for periods amounting in the aggregate to one
year; and

(iii) returns to Malta within two years after his
departure therefrom.

36. (1) Without prejudice to any provision of this Act vesting
the power to make regulations in the Minister, the Minister may
make regulations for prescribing anything which is by this Act to
be prescribed and generally for carrying the purposes or provisions
of this Act into effect, and such power shall include that of
providing that any person who contravenes or fails to comply with
the provisions of any one or more regulations shall be guilty of an
offence against such regulations and of establishing the penalty for
such infringement which shall be a fine (malta) not exceeding two
thousand and five hundred euro (£2,500) or imprisonment not
exceeding three months, or both such fine and imprisonment.
(2) In particular, the Minister may make regulations to regulate:

(a) any border checks which may be ordered, their scope, nature and frequency, the classification of different borders, the designation of official points of entry in, and exit from, Malta, and the hours when such entry or exit may take place;

(b) the position of the holders of diplomatic, service and other official passports as well as of other categories of persons in all matters which are the subject of this Act;

(c) the abolition of checks at the borders and matters related thereto, in line with the European Union Schengen acquis.
FEES PAYABLE FOR RESIDENCE PERMITS AND EMPLOYMENT LICENCES

1st March, 1993


1. The title of these regulations is Fees payable for Residence Permits and Employment Licences Regulations.

2. There shall be paid in respect of each item the following fees:

<table>
<thead>
<tr>
<th>Matters in which fee may be taken</th>
<th>Fee payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. (a) Issue of a residence permit in terms of article 7 of the Immigration Act</td>
<td>€116.47</td>
</tr>
<tr>
<td>(b) Re-issue of a permit to include thereon wife/husband and/or dependant/s</td>
<td>€69.88</td>
</tr>
<tr>
<td>(c) Issue of a permit in replacement of the original permit which has been lost or destroyed, or to delete the name of a person therefrom</td>
<td>€23.29</td>
</tr>
<tr>
<td>2. Application and issue of a uniform residence permit, in terms of regulations 12(1) and 21 of the Immigration Regulations, for each year granted of part thereof</td>
<td>€25.00</td>
</tr>
<tr>
<td>3. Application and issue of residence documentation issued to EU/EEA/Swiss nationals, members of their families and other family members, exercising their right of freedom of movement in Malta which -</td>
<td></td>
</tr>
<tr>
<td>(a) residence permit or residence documentation has been lost, stolen, or destroyed</td>
<td>€20.00</td>
</tr>
<tr>
<td>(b) has been defaced</td>
<td>€15.00</td>
</tr>
<tr>
<td>4. Application for an employment licence in terms of article 11(3) of the Immigration Act, in respect of -</td>
<td></td>
</tr>
<tr>
<td>(a) EU nationals and their family members who are third country nationals and who are entitled to work</td>
<td>Payable on issue: €58</td>
</tr>
<tr>
<td>(b) Third country national Long-term Residents</td>
<td>Payable on issue: €58</td>
</tr>
<tr>
<td>(c) Asylum seekers; recognised refugees; beneficiaries of subsidiary protection and persons granted analogous forms of protection</td>
<td>Payable on issue: €58</td>
</tr>
<tr>
<td>(d) All other third country nationals</td>
<td>Payable on application: €150</td>
</tr>
<tr>
<td></td>
<td>Payable on issue: €80</td>
</tr>
</tbody>
</table>

5. Annual renewal of an employment licence in terms of article 11(3) of the Immigration Act, in respect of
### FEES PAYABLE FOR RESIDENCE
#### PERMITS AND EMPLOYMENT LICENCES

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) EU nationals and their family members who are third country nationals and who are entitled to work</td>
<td>Payable on issue: €34</td>
</tr>
<tr>
<td>(b) Third country national Long-term Residents</td>
<td>Payable on issue: €58</td>
</tr>
<tr>
<td>(c) Asylum seekers; recognised refugees; beneficiaries of subsidiary protection and persons granted analogous forms of protection</td>
<td>Payable on issue: €34</td>
</tr>
<tr>
<td>(d) All other third country nationals</td>
<td>Payable on application: €150 Payable on issue: €80</td>
</tr>
</tbody>
</table>
1. The title of these Regulations is Detention of a Person at Savio College Regulations.

2. These Regulations shall apply to the detention of a person at Savio College as provided in the Schedule.

3. The regulations applicable to persons detained in prison and therein detained as persons awaiting trial shall, as regards the detention of persons, the diet and the discipline of these persons, apply to the person detained under these Regulations, provided that every reference in those regulations to a person detained as a person awaiting trial shall be deemed to be a reference to the person detained under these Regulations, and every reference in those regulations to the prison authorities shall be deemed to be a reference to the rector and the authorities of Savio College.

4. Any person who acts in contravention of any regulation made applicable under regulation 3 shall be guilty of an offence against these Regulations and shall, on conviction, be liable to the punishments established for contraventions.

SCHEDULE
(Regulation 2)

In view of the age of the detainee and of all the circumstances of the case, Jauze Allah, who is at present detained at the Corradino Prisons, is to be detained at Savio College, Buskett Road, Dingli.
SUBSIDIARY LEGISLATION 217.03
PLACES OF DETENTION DESIGNATION ORDER

10th March, 1995


1. The title of this Order is Places of Detention Designation Order.
2. The places listed in the Schedule are hereby declared to be places of detention for the purposes of the Immigration Act.

SCHEDULE
(Article 2)

1. The quarters at the Special Assignment Group Complex, Ta’ Kandja, limits of Siġġiewi.
2. The approved place of Police Custody at the Victoria Police Station, Gozo.
3. The lock up in the building housing the Courts of Justice at Valletta.
4. The lock up at the Police Headquarters at Floriana.
5. The approved place of Police Custody at the Malta International Airport.
6. The approved place of Police Custody at the Seaport, Valletta.
7. The approved place at Lyster Barracks, Hal Far.
8. The approved place of the Police Complex at Fort Mosta, Mosta.
9. The Hal-Far Immigration Reception Centre.
10. The approved place at the Safi Barracks, Safi.
PART I
Preliminary

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

(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 -
   "the Act" means the Immigration Act;
   "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;
   "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;
   "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

*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.

(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.

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
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.

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.

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.

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.

(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.

(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).

(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
IMMIGRATION

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. 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.

(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

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.

(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.

(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

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:

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

*Not yet in force.
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.

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.

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.

(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-passers" 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).

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.
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.
SUBSIDIARY LEGISLATION 217.05
STATUS OF LONG-TERM RESIDENTS
(THIRD COUNTRY NATIONALS)
REGULATIONS

1st November, 2006

LEGAL NOTICE 278 of 2006, as amended by Legal Notices 370 of 2010
and 197 of 2014.

PART I
Purpose, Definitions and Scope

1. (1) The title of these regulations is the Status of Long-term
Residents (Third Country Nationals) Regulations.

(2) The purpose of these regulations is to implement the
concerning the status of third-country nationals who are long-term
residents in determining -

(a) the terms for conferring and withdrawing long-term
resident status granted in relation to third country
nationals legally residing in Malta and the rights
pertaining thereto;

(b) the terms of residence in Malta of a third country
national who was conferred the status of long-term
resident in another Member State.

2. In these regulations, unless the context otherwise requires -
"the Act" means the Immigration Act;
"average wage" means the average annual gross wage published
by the National Statistics Office in the Labour Force Survey;
"the Board" means the Immigration Appeals Board constituted
under article 25A of the Act;
"the Director" means the Director for Citizenship and Expatriate
Affairs;
"employment licence" means the licence referred to in article
11(3) of the Act;
"family members" of the third country national granted long-
term resident status means the following persons who are residing
in Malta:

(a) the spouse who shall be twenty-one years of age or
over;

(b) the unmarried minor children and of his spouse,
including children adopted in a manner recognized by
Maltese law;

(c) the unmarried minor children, including adopted
children, of the long-term resident or of the spouse, as the case may be, where the long-term resident or the spouse has custody and the children are dependent on him;

(d) the children of the long-term resident or of his spouse, whose custody is shared, provided that the other party sharing custody has given his agreement and who have been authorized by the Director to reside in Malta with him;

"international protection" means the status granted to refugees and the persons enjoying subsidiary protection as defined in article 2 of the Refugees Act and the Procedural Standards in Examining Applications for Refugee Status Regulations;

"long-term resident" means any third country national who has long-term resident status as provided for under regulations 4 to 7;

"long-term resident’s EU residence permit" means a residence permit issued by any Member State, including Malta, upon the acquisition of long-term resident status;

"Member State" means any State which is a member of the European Union;

"national minimum wage" means the wage published by means of a national minimum wage national standard order under the Employment and Industrial Relations Act;

"Principal Immigration Officer" means the person appointed to such office by the Prime Minister under article 3 of the Act and includes, within the limits of any authority granted by the Principal Immigration Officer under article 3(3), any public officer acting under such authority;

"third country national" means a person who is not a citizen of a Member State;

"uniform residence permit" means a permit issued under article 4A of the Act and, in particular, any authorization 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.

3. (1) These regulations shall apply to third country nationals who reside legally in Malta.

(2) These regulations shall not apply to third country nationals who reside in Malta:

(a) in order to pursue studies or vocational training;

(b) on the basis of temporary protection in line with the Temporary Protection for Displaced Persons (Minimum Standards) Regulations, or have applied for authorization to reside on that basis and are awaiting a decision on their status;

(c) on the basis of a form of protection, other than international protection or who have applied for authorization to reside on that basis and are awaiting a decision on their status;
(d) who have applied for international protection and whose application has not yet given rise to a final decision;

(e) solely on temporary grounds such as au pair or seasonal workers, or as workers posted by a service provider for the purposes of cross-border providers of services or in cases where their residence permit has been formally limited; and

(f) who are enjoying legal status governed by international conventions on diplomatic and consular relations.

PART II
Duration of Residence

4. (1) The Director shall grant long-term resident status to third country nationals who have resided legally and continuously in Malta for five years immediately prior to the submission of the application referred to in regulation 5(1):

Provided that the Director shall not grant long-term resident status on the basis of international protection in the event of the revocation of, ending of or refusal to renew, international protection in accordance with articles 10(1), article 12 and article 22 of the Refugees Act.

(2) In calculating the period of five years provided for in subregulation (1), periods of residence for the reasons stated in regulation 3(2)(a), (e) and (f) shall not be taken into account.

(3) (a) In calculating the period of five years provided for in sub-regulation (1), a temporary absence from Malta shall not interrupt such period and shall be taken into account in the compilation of the said period when the periods of absence are shorter than six consecutive months and do not exceed the total of ten months within the five year period.

(b) The Director may consider a longer period of absence than the total of ten months referred to in paragraph (a), by a further period of twelve months when such absence is due to:

(i) health reasons;

(ii) secondment by the employer of the third country national;

(iii) business travel; or

(iv) education or training purposes.

In such cases, the period of absence longer than the total of ten months shall not be taken into account in the calculation of the period referred to in subregulation (1).
(c) As regards persons to whom international protection has been granted, the Director shall take into account, in the calculation of the period referred to in sub-regulation (1), half of the period between the date of the lodging of the application for international protection on the basis of which that international protection was granted, and the date of the grant of the permit in terms of regulation 14 of Procedural Standards in Examining Applications for Refugee Status Regulations or the whole of that period if it exceeds 18 months.

5. (1) A third country national wishing to obtain long-term resident status shall submit an application in writing to the Director.

(2) When applying for long-term resident status in accordance with subregulation (1), the third country national shall provide evidence that he has -

(a) stable and regular resources which have subsisted for a continuous period of two years immediately prior to the date of application, declared with the pertinent tax authorities in Malta, which are sufficient to maintain himself and the members of his family without recourse to the social assistance system in Malta or to any benefits or assistance of any type payable under the Social Security Act, the Housing Authority Act and any other law providing any assistance of a social nature and which would be equivalent to, at least, the national minimum wage in Malta with an addition of another twenty percent of the national minimum wage for each member of the family;

(b) appropriate accommodation regarded as normal for a comparable family in Malta and which meets the standards, which shall be published by notice in the Gazette on the date of the coming into force of these regulations* and subsequently every five years, as defined by the Ministry responsible for housing;

(c) a valid travel document;

(d) sickness insurance in respect of all risks normally covered for Maltese nationals for himself and the members of his family;

(e) met the conditions set out in regulation 4.

(3) In order to be eligible to apply for long-term resident status, a third country national shall provide evidence that he has complied with the following integration conditions, namely:

(a) in the last twelve months immediately prior to the application for long term resident status he has attended a course organised by the public employment

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* the reference is to Legal Notice 370 of 2010 - came into force on 1st August, 2010.
service or any other competent authority of at least one hundred hours having as its subject matter the social, economic, cultural and democratic history and environment of Malta, and that he provides evidence certifying that he has attended at least one hundred hours of the lessons of these courses with satisfactory attention and that he has achieved an examination pass mark of at least seventy five percent;

(b) has obtained a pass mark of at least seventy five percent after being assessed by the competent authorities to have achieved the equivalent of Malta Qualifications Framework Level 2 in Maltese; and

(c) provides evidence that the necessary fees charged in relation to the courses, examinations and certificates referred to above have been paid.

6. (1) The Director may refuse to grant an application for long-term resident status made by a third country national on grounds of public policy or public security.

(2) A refusal in terms of subregulation (1) shall not be founded on economic considerations.

(3) When taking the relevant decision in accordance with subregulation (1), the Director shall consider the severity or type of offence against public policy or public security, or the danger that emanates from the person concerned, while also having regard to the duration of residence in Malta and the existence of links therewith.

7. (1) The Director shall give the applicant written notification of the decision as soon as possible and, in any event, no later than six months from the date when the application was lodged:

Provided that, in exceptional circumstances which are linked to the complexity of the case, the time limit of six months may be extended by another period of six months.

(2) The Director shall notify the applicant when the period for the examination of the application is extended.

(3) The written notification shall include information about the rights and obligations of the third country national that arise under these regulations.

(4) In the event that the Director fails to give a decision within the period specified in subregulation (1), the application shall automatically be passed on for appeal to the Board.

(5) If the conditions provided for by regulations 4 and 5 are met, and the person does not represent a threat within the meaning of regulation 6, the Director shall grant the third country national concerned long-term resident status.
8. (1) Without prejudice to the provisions on the withdrawal or loss of the status in accordance with regulation 9, the status of long-term resident shall be permanent.

(2) The long-term resident’s EU residence permit shall be valid for five years and shall be automatically renewable upon application.

(3) The Director shall issue a uniform residence permit and shall enter, under the heading ‘type of permit’, the words "long-term resident - EU" thereon and, where applicable, under the heading ‘remarks’ there shall be inserted ‘international protection granted by Malta on [date]’:

Provided that where international protection was granted by another Member State under the heading ‘remarks’ there shall be inserted ‘international protection granted by [Member State] on [date]’, upon confirmation by that Member State that the long-term resident is still a beneficiary of international protection granted by that Member State, except where such international protection has been withdrawn through a final decision.

(4) Where a second Member State requests information as to whether a person who is the holder of a long-term resident permit containing the remark mentioned in sub-regulation (3), is still a beneficiary of international protection, the Director shall provide a reply to the second Member State no later than one month after receiving the request for information.

(5) Where responsibility for international protection of the long-term resident was transferred to Malta after the long-term resident’s EU resident permit referred to in sub-regulation (3) was issued, the Director shall amend accordingly the remark referred to in the proviso to sub-regulation (3) no later than 3 months after the transfer.

9. (1) A long-term resident shall lose his long-term resident status in the following cases:

(a) if it is proved that the resident had acquired his long-term resident status through fraudulent means;

(b) if the Principal Immigration Officer has issued an order for his removal in accordance with regulation 12;

(c) if the long-term resident has been absent from the territory of the European Union for a period of twelve consecutive months;

(d) if the long-term resident has acquired a long-term resident status in another Member State;

(e) if the long-term resident is absent for six years from Malta and is residing in another Member State;

(f) if he constitutes a threat to public policy, taking into consideration the seriousness of the offence he committed;
(g) if the long-term resident obtained the said status on the basis of international protection and has had such protection revoked, ended or refused to be renewed as laid down in articles 10(1), 12 and 22 of the Refugees Act.

Provided that, in the case of specific and exceptional circumstances relating to paragraph (e) and specific circumstances relating to paragraph (g), as may be determined by the Director, the long-term resident shall not lose his status.

(2) The Director shall facilitate the re-acquisition of long-term resident status in Malta when such person was absent from Malta in accordance with subregulation (1)(c) or (1)(e), and, in particular, in the case of subregulation 1(e), when the absence was due to pursuit of studies:

Provided that such person provides evidence that he fulfils the requirements for obtaining long-term resident status in accordance with regulation 5(2) and (3) and has resided legally and continuously in Malta for two and a half years immediately prior to the submission of the application referred to in regulation 5(1).

(3) The expiry of the long-term resident’s EU residence permit shall not entail the withdrawal or loss of the long-term resident status.

(4) Where the withdrawal or loss of long-term resident status does not result in the removal of the third country national from Malta, and the third country national does not constitute a threat to public policy or public security, he shall be issued with a residence permit provided that he meets the conditions referred to in regulation 5.

10. (1) When notifying the third country national of his decision, the Director shall give reasons for such decision rejecting an application for long-term resident status or withdrawing that status, and shall inform him about the redress procedures available.

(2) Where an application for long-term resident status is rejected or that status is withdrawn or lost or the residence permit is not renewed, the third country national shall have the right to appeal to the Board.

11. (1) A third country national granted long-term residence status in Malta shall enjoy equal treatment as Maltese nationals as regards:

(a) access to employment and self-employed activity, as long as such activities do not entail even occasional involvement in the exercise of public authority and are not reserved by law for Maltese nationals in terms of the Public Administration Act and any regulations made thereunder;

(b) conditions of employment and working conditions including conditions regarding dismissal and remuneration;
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(c) education and vocational training, including study grants, in accordance with the Education Act and regulations made thereunder;

(d) recognition of professional diplomas, certificates and other qualifications;

(e) social security and core benefits as regards social assistance and social protection in accordance with Maltese law;

(f) tax benefits;

(g) access to goods and services and the supply of goods and services made available to the public and to procedures for obtaining housing;

(h) freedom of association and affiliation and membership of an organization representing workers or employers or of any organization whose members are engaged in a specific occupation, including the benefits conferred by such organizations, without prejudice to the general principles of public policy and public security;

(i) free access to the entire territory of Malta within the limits provided for by the national legislation for reasons of security.

(2) The equal treatment referred to in subregulation (1)(a) as regards access to employment may be restricted if an order has been made in accordance with regulation 5(7) of the Immigration Regulations by the Minister responsible for employment.

(3) Any restrictions applicable to equal treatment referred to in this regulation shall be without prejudice to the provisions of the Refugees Act and any subsidiary legislation made thereunder.

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12. (1) A third country national who has acquired long-term resident status in Malta may be expelled from Malta through a removal order issued by the Principal Immigration Officer when he constitutes an actual and sufficiently serious threat to the public policy or public security of Malta with due regard to the following factors:

(a) the duration of residence in Malta;

(b) the age of the person concerned;

(c) the consequences for the person concerned and family members;

(d) links with Malta as his country of residence or the absence of links with his country of origin.

(2) The expulsion referred to in subregulation (1) shall not take place for economic considerations.

(3) Where it has been decided that a long-term resident whose long-term resident’s EU residence permit contains the remark referred to in the proviso to regulation 8(3) is to be removed from Malta, the Director shall request the Member State mentioned in the said remark to confirm whether the long-term resident is still a
beneficiary of international protection.

(4) If the said Member State confirms that the long-term resident is still a beneficiary of international protection, the long-term resident shall be removed to that Member State:

Provided that where that person concerned fulfils the conditions specified in article 14(2) of the Refugees Act, the Principal Immigration Officer shall retain the right to remove him in accordance with Malta’s international obligations, to a country other than the Member State which granted international protection.

(5) The provisions of this regulation shall apply without prejudice to the provisions of article 14(1) the Refugees Act.

12A. If a Member State requires confirmation, prior to expelling a long-term resident who was granted such status in that Member State and in whose residence permit it is remarked that such person enjoys international protection in Malta, as to whether such person still enjoys international protection, the Director shall reply no later than one month after receiving the request for information. If the said person is still a beneficiary of international protection in Malta, he shall be readmitted without any formalities together with his family members without prejudice to the provisions of the Act and any subsidiary legislation made thereunder and applicable EU law.

PART III
Residence in Malta of Third Country Nationals granted Long-Term Resident Status in another Member State

13. (1) A third country national who has been granted long-term resident status by another Member State other than Malta may reside in Malta, for a period exceeding three months, subject to the conditions set out in this Part of these regulations and may do so for the following reasons:

(a) the exercise of an economic activity in an employed or self-employed capacity:

Provided that, without prejudice to any rights acquired in accordance with the provisions of regulation 19, in order to undertake such an activity the person concerned should be in possession of an employment licence that has been issued after the situation of the labour market in Malta has been examined by the competent authorities;

(b) the pursuit of studies or vocational training;

(c) other purposes.

(2) In applying the provisions of subregulation (1)(a) preference may be given to EU citizens, to third country nationals when provided for by Community law, and to third country nationals residing legally and receiving unemployment benefits in Malta.

(3) This Part does not concern the residence of persons who
have been granted long-term resident status in other Member States and are in Malta as -

(a) employed workers posted by a service provider for the purposes of cross-border provision of services; or

(b) providers of cross-border services.

14. (1) A third country national who has been granted long-term resident status in another Member State and who wishes to reside in Malta shall apply to the Director for a residence permit as soon as possible and, in any case, no later than three months after entering Malta.

(2) (a) The provisions of regulation 5(2)(b) to (d) shall also apply in this case.

(b) The third country national shall provide evidence that he has stable and regular resources which are sufficient to maintain himself and the members of his family without recourse to the social assistance system in Malta and which would be equivalent to the average gross wage in Malta with an addition of another twenty percent of the average wage for each member of the family.

(c) When not constituted in the first Member State, family members shall be allowed to accompany the third country national holding the long-term residence permit if the applicable provisions of the Family Reunification Regulations are satisfied.

(3) The person mentioned in sub-regulation (1) shall submit the evidence required in regulation 5(3):

Provided that if he has already complied with integration measures in the first Member State, he shall submit evidence of having complied with such measures as well as the evidence referred to in regulation 5(3)(b).

(4) The long-term resident shall also submit his long-term resident permit that had been issued to him in the other Member State or a certified copy thereof.

(5) In addition to the provisions of subregulation (2), the said person shall also provide the following:

(a) if he has entered Malta for the purpose of carrying out an economic activity, he shall be required to furnish the employment licence which has been issued for the purpose;

(b) if he has entered Malta for the purpose of study or vocational training, he shall be required to furnish documentary evidence of enrolment in an accredited establishment in order to pursue studies or vocational training; and

(c) if he has entered Malta for any other purpose except for those referred to in paragraphs (a) and (b), he shall be required to provide documentary evidence, which
shall be determined by the Director, related to the purpose of his residence.

15. (1) When the long-term resident applies for a permit to reside in Malta referred to in regulation 14(1), only the family members referred to paragraphs (a) to (d) of the definition of "family members" in regulation 2 residing with him in the first Member State, shall be authorized to accompany or join the long-term resident in Malta

(2) With respect to the application to be made for a residence permit, the provisions of regulation 14(1) shall apply.

(3) A family member referred to in subregulation (1) shall, when applying for a residence permit in Malta, present:

(a) his long-term resident’s EU residence permit or residence permit or a certified copy thereof;

(b) a valid travel document;

(c) evidence that he has resided as a member of the family of the long-term resident in the first Member State;

(d) evidence that the long-term resident referred to in subregulation (1) shall have stable and regular resources as required in regulation 14(2)(b) as well as sickness insurance in respect of all risks normally covered for Maltese nationals in respect of the said family member.

16. (1) The Director may refuse an application for residence made by a long-term resident or his family members where the person concerned constitutes a threat to public policy or public security.

(2) When taking the relevant decision in accordance with subregulation (1), the Director shall consider the severity or type of offence against public policy or public security committed by the long-term resident or his family member, or the dangers that are emanating from such person.

(3) Refusal to grant a residence permit shall not be based on economic considerations.

17. (1) The Director may refuse an application for residence from a long-term resident or members of his family where the person concerned constitutes a threat to public health.

(2) The only diseases that may justify a refusal to allow entry or the right of residence in Malta under this Part shall be the diseases as defined by the relevant applicable instruments of the World Health Organisation and such other infectious or contagious parasite-based diseases as are the subject of protective provisions in relation to Maltese nationals in accordance with the provisions of the Public Health Act.

(3) Diseases contracted after the first residence permit was issued under this Part shall not justify a refusal to renew the permit or expulsion from Malta.
STATUS OF LONG-TEEM RESIDENTS
(THIRD COUNTRY NATIONALS)

(4) The Director may require a medical examination for persons to whom this Directive applies in order to certify that they do not suffer from any of the diseases referred to in subregulation (2).

18. (1) The Director shall give the applicant for a residence permit under this Part written notification of his decision as soon as possible and, in any event, no later than four months from the date when the application was lodged:

Provided that, if the applicant does not submit documentary evidence as required by regulations 13 and 14(2)(a) and (b) or, in exceptional circumstances which are linked to the complexity of the examination of the application, the time limit of four months may be extended by another period of not more than three months.

(2) The Director shall notify the applicant when the period for the examination of the application is extended.

(3) If the conditions of regulations 13, 14 and 15 are met and subject to the provisions relating to public policy, public security and public health in regulations 16 and 17, the Director shall issue a residence permit to the long-term resident.

(4) The residence permit shall be valid for a period of one year and shall, upon application, be renewable.

(5) In the case of a person who holds a long-term resident permit issued by another Member State and which contains a remark that he was granted international protection in that Member State and where Malta has accepted the transfer of international protection from the same Member State and the person concerned has not yet been issued by the Director with a long-term resident permit in terms of the proviso to article 8(3), the Director shall ask that Member State to amend the remark accordingly.

(6) In the case of a person who holds a long-term residence permit issued by another Member State and where Malta has granted international protection to such person, the Director shall ask that Member State to amend the remark accordingly.

(7) The Director shall issue an amended long-term resident permit containing the relevant remark to a person who has been granted long-term residence in Malta, and who has exercised his right of mobility to another Member State as provided for in Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents, within 3 months of having received the request from the Member State to which the long-term resident has moved where -

(a) that Member State has accepted the transfer of protection of the said person; and,

(b) that Member State has granted international protection to such person.

(8) The Director shall keep the responsible authorities of the Member State which had issued the long-term resident permit informed about his decision to grant or renew a residence permit.
under this Part.

(9) The Director shall issue residence permits to the family members of the long-term resident, which permits shall, upon application, be renewable, and which shall be valid for the same period as the residence permit issued to the long-term resident.

(10) In the case of a decision rejecting an application for a residence permit, the written notification referred to in sub-regulation (1) shall include the reasons therefor and details about the possibility of lodging an appeal with the Board.

(11) In the event that the Director fails to give a decision within the period specified in subregulation (1), the application shall automatically be passed on for appeal to the Board.

19. (1) As soon as the third country national who has applied for a residence permit in Malta under this Part receives such permit in accordance with the provisions of regulation 18, the provisions of regulation 11 shall apply.

(2) Long-term residents shall have access to the labour market in accordance with the provisions of subregulation (1):

Provided that:

(i) such persons who are exercising their right of residence in Malta for the reasons stated in regulation 13(1)(a) shall not have, for the first twelve months after having been issued with a residence permit, access to an employed activity other than that for which they have been granted an employment licence;

(ii) such persons who are exercising the right of residence in Malta for the reasons stated in regulation 13(1)(b) shall not have any, or only restricted, access to an employed activity, after the situation of the labour market in Malta has been examined by the competent authorities;

(iii) such persons who are exercising the right of residence in Malta for the reasons stated in regulation 13(1)(c) shall only have access to an employed activity after the situation of the labour market in Malta has been examined by the competent authorities.

20. (1) Until the third country national obtains long-term resident status in Malta under this Part, the Director may refuse to renew or may decide to withdraw the residence permit and oblige the third-country national concerned and his family members, in accordance with the provisions of the Act, to leave Malta in the following cases:

(a) on the grounds of public policy or public security in line with the provisions of regulation 16;

(b) where the conditions provided for in regulations 13, 14 and 15 are no longer met;

(c) where the third-country national is not lawfully
residing in Malta.

(2) The Director shall notify the first Member State of his
decision.

(3) In taking a decision on the grounds stated in subregulation
(1)(a), the Director may decide to include a permanent ban on
residence.

(4) Until the third-country national has obtained long-term
resident status in Malta, the Principal Immigration Officer may
adopt a decision to remove the third-country national from the
territory of the Union, in accordance with the provisions of the Act
and in accordance with and under the guarantees provided for in
regulation 12, on serious grounds of public policy or public
security.

(5) In such cases referred to in subregulation (4), the Director
shall consult with the competent authorities of the Member State
which had issued the long-term residence permit.

(6) When a decision is taken in accordance with subregulation
(1), the Director shall provide the competent authorities in the
Member State that had issued the long-term residence permit with
appropriate information with respect to the implementation of the
decision.

(7) (a) The provisions of sub-regulations (4), (5) and (6) shall
not apply to a third country national whose long-term
resident EU residence permit issued by the Member
State concerned contains the remark that international
protection was granted by such State unless in the
meantime, the international protection has been
withdrawn or the person falls within one of the
categories specified in article 14(2) of the Refugees
Act.

(b) This sub-regulation shall apply without prejudice to
the provisions of article 14(1) of the Refugees Act.

21. (1) In the case of a third country national who has been
granted long-term resident status in Malta and, after having moved
to another Member State, has been removed from that State on the
grounds stated in regulation 20(1), the Principal Immigration
Officer shall immediately readmit, without formalities, the person
concerned and his family.

(2) If the said third country national also holds international
protection in Malta, the provisions of regulation 12A shall apply.

22. (1) Upon application, the Director shall grant long-term
residents referred to in this Part, the status provided for by
regulation 7(5), subject to the provisions of regulations 3, 4, 5 and
6 hereof.

(2) The Director shall notify the competent authorities of the
first Member State of his decision.

(3) The procedures laid down in regulations 5 and 7 shall apply
to the presentation and examination of applications for long-term resident status in Malta under this Part.

(4) The provisions of regulation 8 shall apply to the issuing of the residence permit.

23. *(Deleted by Legal Notice 197 of 2014).*

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Transitory provisions.

*Added by: L.N. 370 of 2010.*
PART I

PRELIMINARY

1. (1) The title of these regulations is the Family Reunification Regulations.

(2) The purpose of these regulations is to implement the provisions of the European Union Directive 2003/86/EC on the right to family reunification.

2. In these regulations, unless the context otherwise requires:

"average wage" means the average annual gross wage published by the National Statistics Office in the Labour Force Survey;

"the Director" means the Director for Citizenship and Expatriate Affairs;

"family reunification" means the entry into, and residence in, Malta by family members of a third country national residing lawfully in Malta in order to preserve the family unit, whether the family relationship arose before or after the resident’s entry;

"minor" means a person who has not attained the age of eighteen years;

"residence permit" means a permit issued under article 4A of the Immigration Act, and in particular means an authorization 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;

"sponsor" means a third country national residing lawfully in Malta who applies for the members of his family to join him for family reunification purposes;

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

PART II

APPLICATION FOR FAMILY REUNIFICATION

3. (1) The sponsor shall be entitled to apply for family reunification subject to the following conditions:

(a) if the members of his family are third country nationals; and

(b) he is holding a residence permit valid for a minimum period of one year; and

(c) he has reasonable prospects of obtaining the right of
permanent residence.

(2) The sponsor shall not be entitled to apply for family reunification if he -

(a) has applied for recognition of refugee status and his application has not yet been decided;
(b) is authorised to reside in Malta on the basis of temporary protection or awaiting a decision thereon;
(c) is authorised to reside in Malta on the basis of a subsidiary form of protection or awaiting a decision thereon.

Part III
Family Members

4. (1) Subject to the provisions of Part V and of regulations 18, 19 and 20, the Director shall authorise the entry and residence of the following family members:

(a) the sponsor’s spouse who shall be twenty-one years of age or over:
   Provided that in the event of a polygamous marriage, where the sponsor already has a spouse living with him in Malta, the Director shall not authorise the family reunification of a further spouse;
(b) the unmarried minor children of the sponsor and of his spouse, including children adopted in a manner recognized by Maltese law;
(c) the unmarried minor children, including adopted children, of the sponsor or of the spouse, as the case may be, where the sponsor or the spouse has custody and the children are dependent on him.

(2) In the case of children whose custody is shared between the sponsor and his spouse, the Director may authorize their reunification, provided that the other party sharing custody has given his or her agreement.

Part IV
Submission and Examination of the Application

5. (1) An application for entry and residence shall be submitted to the Director by the sponsor.

(2) The sponsor may not submit an application for family reunification before he has resided legally in Malta for a minimum period of twelve months.

6. The application for family reunification shall be accompanied by documentary evidence of the family relationship and of compliance with the conditions laid down in regulations 4, 11, 12 and 13 as well as by certified copies of travel documents of the family members.
7. In order to obtain evidence that a family relationship exists, the Director may decide to carry out interviews with the sponsor and his family members and conduct other investigations that may be necessary.

8. The application shall be submitted by the sponsor and examined by the Director when the family members are residing outside Malta:

Provided that in appropriate circumstances, the Director may accept an application submitted whilst the family members are already in Malta.

9. (1) The Director shall give the sponsor, who has submitted the application for family reunification, written notification of the decision as soon as possible and in any event no later than nine months from the date on which the application was lodged:

Provided that in exceptional circumstances linked to the complexity of the examination of the application, the time limit referred to in this subregulation may be extended.

(2) The Director shall give the reasons for his decision when rejecting the application.

(3) In the event that the Director fails to give a decision within the period specified in subregulation (1), the application shall automatically be passed on for appeal to the Immigration Appeals Board in terms of regulation 22.

10. When examining an application, the best interests of minor children shall be taken into consideration.

Part V

Requirements for the Exercise of the Right to Family Reunification

11. (1) The Director may reject an application for entry and residence, refuse to renew or withdraw a residence permit of family members on grounds of public policy, public security or public health.

(2) When taking the relevant decision in accordance with subregulation (1), the Director shall consider, besides the provisions of regulation 21, the severity or type of offence against public policy or public security committed by the family member, or the dangers that are emanating from such person.

(3) Renewal of the residence permit of a family member may not be withheld, and removal from Malta may not be ordered by the Director, on the sole ground of illness or disability suffered after the issue of the residence permit.

12. When submitting the application for family reunification, the sponsor shall provide evidence that he has -

(a) documents attesting the family relationship that exists with the persons who are the subject of the application;

(b) accommodation regarded as normal for a comparable family in Malta and which meets the general health conditions.
and safety standards in force in Malta;

(c) sickness insurance in respect of all risks for himself and the members of his family;

(d) stable and regular resources which are sufficient to maintain himself and the members of his family without recourse to the social assistance system in Malta and which would be equivalent to, at least, the average wage in Malta with an addition of another twenty percent income or resources for each member of the family who will be the subject of the family reunification application.

Prior lawful stay.

13. The Director shall not allow the members of the family of the sponsor to join him in Malta unless he has stayed lawfully in Malta for a period of two years:

Provided that in exceptional circumstances the Director may allow the family members to join the sponsor in Malta before the said period of two years.

Part VI

Entry and Residence of Family Members

Acceptance of application.

14. (1) As soon as the application for family reunification has been accepted, the Director shall authorize the entry of the family member or members who were the subject of the application, and every facility for obtaining the required visas shall be given to the persons concerned.

(2) The family members shall be granted a first residence permit of at least one year’s duration which shall be renewable:

Provided that the duration of the residence permits granted to the members of the family of the sponsor shall, in principle, not extend beyond the date of expiry of the residence permit held by the sponsor.

(3) The sponsor and the family members may be required to attend, and successfully complete, courses in the Maltese language.

Entitlements of the family members.

15. The family members of the sponsor shall be entitled, in the same way as the sponsor, to:

(a) access to education;

(b) access to employment and self-employed activity:

Provided that when the sponsor has access to employment and self-employment without the need for an assessment of the situation of the labour market, the said family members shall not be entitled to access in the same way as the sponsor for the first twelve months following their arrival in Malta and for such period of twelve months after their arrival, their access to employment or self-employment shall be subject to an assessment of the situation of the labour market in Malta and the requirement of an employment licence;

(c) access to vocational guidance, initial and further
training and retraining.

16. (1) Upon the expiry of a period of five years’ residence in Malta and provided that the family member has not been granted a residence permit for reasons other than family reunification, the spouse or the child who has reached majority shall be entitled, upon application, to an autonomous residence permit:

Provided that, in the case of the breakdown of the marriage, the Director may limit the granting of such permit to the spouse only.

(2) The autonomous residence permit is valid for a period of one year and shall be renewable.

(3) During the period of five years referred to in subregulation (1), a temporary absence from Malta shall not interrupt such period and such absence shall not be taken into account in the compilation of the said period when the periods of absence are shorter than six consecutive months and do not exceed the total of ten months within the five year period:

Provided that, for exceptional reasons of a temporary nature, the Director may consider a longer period of absence as not interrupting the said period of five years.

17. (1) The Director shall issue an autonomous residence permit to the widow, to the minor child and to the child who has reached the age of majority in the event of the death of the sponsor after having obtained a residence permit for reasons of family reunification.

(2) The Director shall issue an autonomous residence permit to a person who, having entered Malta on the basis of a family reunification permit, such person is subsequently found to be in particularly difficult circumstances following a breakdown of the marriage.

18. The Director may reject an application for entry and residence for the purpose of family reunification, or withdraw or refuse to renew a family member’s residence permit, in the following circumstances:

(a) where the conditions laid down by these regulations are not, or are no longer, satisfied:

Provided that, when renewing the residence permit, the contributions of the family members to the household income shall be taken into account where the sponsor fails to prove that he has the sufficient resources referred to in regulation 12(d) without recourse to the social assistance system;

(b) where the sponsor and his family members do not, or no longer live, in a real marital or family relationship;

(c) where it is found that the sponsor is already married;

(d) where it is shown that the family reunification permit was based on false or misleading information, false or
falsified documents, or otherwise fraudulently obtained; and

(e) where it is shown that the marriage or adoption which are the subject of the application for family reunification was contracted solely for the purpose of enabling the person concerned to enter or reside in Malta.

Withdrawal or refusal to renew permit when sponsor’s residence ends.

Specific checks and inspections may be carried out.

19. The Director may withdraw or refuse to renew the residence permit of a family member where the sponsor’s residence comes to an end and the family member does not yet enjoy an autonomous right of residence under regulations 16 and 17.

20. The Director may conduct specific checks and inspections where there is reason to suspect that there is fraud or a marriage or adoption of convenience as defined by regulation 18(d) and (e). Specific checks may also be undertaken on the occasion of the renewal of residence permits of family members.

Consideration of family relationships.

21. Before rejecting an application, withdrawing or refusing to renew a residence permit or deciding to order the removal of the sponsor or members of his family, the Director shall take due account of the nature and solidity of the person’s family relationships and the duration of his residence in Malta and of the existence of family, cultural and social ties with such person’s country of origin.

Right of appeal.

22. The sponsor and the members of his family shall have the right to appeal to the Immigration Appeals Board against a decision taken by the Director rejecting the application for family reunification or refusing to renew or withdraw a residence permit.
PERMISSION TO RESIDE FOR VICTIMS
OF TRAFFICKING OR ILLEGAL IMMIGRATION
WHO CO-OPERATE WITH THE MALTESE AUTHORITIES

SUBLEGALISATION 217.07
PERMISSION TO RESIDE FOR VICTIMS
OF TRAFFICKING OR ILLEGAL IMMIGRATION
WHO CO-OPERATE WITH THE MALTESE
AUTHORITIES REGULATIONS

LEGAL NOTICE 175 of 2007.

6th July, 2007

1. (1) The title of these regulations is the Permission to
Reside for Victims of Trafficking or Illegal Immigration who co-
operate with the Maltese Authorities Regulations.

(2) These regulations transpose Council Directive 2004/81/EC
on the residence permit issued to third country nationals who are
victims of trafficking of human beings or who have been the
subject of an action to facilitate illegal immigration, who co-
operate with the competent authorities.

(3) These regulations shall apply to third country nationals who
are or have been victims of offences related to the trafficking of
human beings, even if they have entered Malta illegally.

(4) The Principal Immigration Officer may, when he considers
it necessary, apply the provisions of these regulations to third
country nationals who have been the subject of an action to
facilitate illegal immigration.

(5) These regulations shall apply without prejudice to the
provisions relating to the protection of witnesses under the Police
Act, and to the protection granted under the Refugees Act, and shall
define the conditions for granting residence permits of limited
duration to third country nationals who co-operate with the
Principal Immigration Officer in the fight against trafficking of
human beings or against action to facilitate illegal immigration.

2. In these regulations, unless the context otherwise requires -

"Act" means the Immigration Act;

"action to facilitate illegal immigration" covers those cases
provided for in article 32 of the Immigration Act;

"co-operate" means the giving of information by the third
country national to the immigration authorities related, inter alia,
to his arrival in Malta as a victim of trafficking or related to his
illegal arrival in Malta and includes, in particular, the names of
persons of traffickers and their accomplices or details related to
points of departure, which information leads to, or contributes
significantly to, the tracing or prosecution of the trafficker;

"Director" means the Director for Citizenship and Expatriate
Affairs;

"Member State" means any one of the Member States of the
European Union;

"Minister" means the Minister responsible for immigration;

"residence permit" includes a permit issued under article 4A of the Act and in particular includes an authorization 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;

"third country national" means any person who is not a national of a Member State;

"trafficking of human beings" covers those cases provided for in Sub-title VIII Bis of Title VIII of the Criminal Code;

"unaccompanied minor" means a third country national, below the age of eighteen, who arrives in Malta unaccompanied by an adult responsible for him whether by law or custom, and for as long as he is not effectively taken into the care of such a person, or a minor who is left unaccompanied after he has entered Malta.

3. (1) When it appears to the Principal Immigration Officer that the third country national is co-operating with him in the fight against trafficking of human beings or, where applicable, against action to facilitate illegal immigration, he shall inform the third country national concerned of the possibilities offered under these regulations.

(2) The Principal Immigration Officer may invite a non-governmental organisation or another relevant association to give such information to the third country national concerned.

(3) The Principal Immigration Officer shall grant a period of reflection, of not more than two months, with effect from the day when the information referred to in subregulation (1) is given by the Principal Immigration Officer, for the third country national to detach himself from the influence of the perpetrators of the offence so as to enable him to take an informed decision on the possibility of co-operating.

(4) During the reflection period the third country national shall not be removed from Malta:

Provided that the reflection period shall not create any entitlement to residence under these regulations.

(5) During the period of reflection, while due regard is had to his safety and protection needs, the third country national who does not have sufficient resources shall be provided with:

(i) the standards of living capable of ensuring his subsistence;

(ii) access to emergency medical care;

and, where applicable:

(iii) attention to the needs of the most vulnerable;

(iv) psychological assistance;

(v) translation and interpreting services;
(vi) free legal aid:

Provided that in the case where the third country national is a minor, he shall have access to the public education system under the same conditions as Maltese nationals.

(6) The period of reflection shall be terminated at any time by the Principal Immigration Officer for reasons relating to public policy or the protection of national security or if he establishes that the third country national concerned has actively, voluntarily and on his own initiative renewed contact with the perpetrators of the offences of trafficking of persons or facilitating illegal immigration.

4. A third country national who is a victim of trafficking of human beings being or is the subject of an action to facilitate illegal immigration in terms of the provisions of these regulations, and who is found under circumstances which clearly indicate that he is a child or young person in need of care, shall be assisted in terms of the Children and Young Persons (Care Orders) Act as if he were a child or young person under such Act.

5. (1) Without prejudice to any restrictions arising from public policy or public security, the Principal Immigration Officer may, at the end of the reflection period, or earlier if he is of the view that the third country national already fulfils the conditions stipulated in paragraphs (a) to (c), recommend to the Director the issuing of a residence permit for the third country national concerned when it is clear that:

(a) the permission to remain in Malta of the third country national may present an opportunity for the investigations or judicial proceedings;

(b) the third country national intends to co-operate with the Principal Immigration Officer;

(c) the third country national has severed all relations with the persons suspected of committing the offences of trafficking of persons or facilitating illegal immigration:

Provided that, when the third country national concerned is a minor, the Principal Immigration Officer shall take due account of his best interests and ensure that the procedure is appropriate to his age and maturity.

(2) The residence period referred to in subregulation (1) shall be valid for a period of six months which shall be renewable if the conditions mentioned in the said subregulation continue to subsist and, in particular, taking into account the best interests of the child in cases where the third country national is a minor.

(3) The provisions of regulation 3(5) shall apply to the third country national concerned, when he does not have the necessary resources, after the issue of the residence permit and for the duration of such permit:

Provided that the third country national shall be provided
PERMISSION TO RESIDE FOR VICTIMS
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with the necessary medical care or other assistance, when he does not have sufficient resources, and has special needs such as in the case of pregnant women, disabled persons, victims of sexual or other forms of violence, and minors.

(4) The third country national concerned may be granted a work permit for the duration of the residence permit, in accordance with article 11(3) of the Act, and, especially when such third country national is a minor, access to vocational training and education.

(5) Where applicable, the third country national concerned shall be granted access to programmes or schemes, provided by Government, non-governmental organisations or associations having a specific agreement with Government, aimed at the recovery of a normal social life including, where appropriate, courses designed to improve professional skills or preparation of his assisted return to the country of origin.

6. (1) Upon the recommendation of the Principal Immigration Officer, the Director shall not renew the residence permit if the conditions provided for in regulation 5(1) no longer subsist or if the proceedings referred to in the same subregulation have been terminated, in which case the provisions of the Act relating to removal shall apply.

(2) Upon the recommendation of the Principal Immigration Officer, the Director shall withdraw the residence permit if the conditions set out in regulation 5(1) no longer subsist and, in particular:

(a) if the holder has actively, voluntarily and on his own initiative renewed contacts with those suspected of perpetrating the offences referred to in regulation 3(6); or

(b) if the Principal Immigration Officer believes that the co-operation by the third country national concerned is fraudulent or that his complaint is fraudulent or wrongful; or

(c) for reasons relating to public policy and to the protection of national security; or

(d) when the third country national ceases to co-operate; or

(e) when the Principal Immigration Officer decides to discontinue the proceedings.

Non-renewal and withdrawal of the residence permit.
1. The title of these regulations is the Board of Visitors for Detained Persons Regulations.

2. (1) There shall be a Board of Visitors for Detained Persons, hereinafter referred to as "the Board", composed of a Chairman, a minimum of two and maximum of eight members and a Secretary as shall be appointed annually by the Minister responsible for immigration, hereinafter referred to as "the Minister".

   (2) The Visitors shall hold office from the 1st January of the year for which they shall be appointed.

   (3) If any vacancy in the Board occurs during the year, on account of death, resignation or for any other cause, the Minister shall, as soon as practicable, appoint another person to fill the vacancy:

       Provided that the Board and the members thereof may act notwithstanding any such vacancy.

3. The Board shall have the following functions:

   (a) to satisfy itself as to the treatment of detainees, the state of detention centres premises and the administration of the detention centres;

   (b) to monitor the administration of the detention centres’ disciplinary system and inform the Minister of its findings; this includes the authority to attend disciplinary hearings of detainees;

   (c) to advise the Minister on any matter relating to the care of detainees, as well as to the organisation and improvement of the detention centres and the Detention Service, which the Minister may refer to it or any ancillary matter on which the Board deems it opportune to tender its advice to the Minister;

   (d) to advise the Minister on matters relating to work and activity to be performed by detainees;

   (e) to inquire into and report upon any matter which it deems proper, or the Minister requests it, to enquire into;

   (f) to act as the body of persons responsible for a National Preventive Mechanism for the prevention of torture, as provided for in the Optional Protocol to the United Nations Convention against Torture;
(g) to monitor the proceedings relating to the involuntary return of illegally staying third country nationals in accordance with the provisions of the Immigration Act and of the Common Standards and Procedures for Returning Illegally Staying Third Country Nationals Regulations; and

(h) to perform such other functions as are assigned to it under these regulations.

Meetings and proceedings of the Board.

4. (1) The Board shall meet at least once a month at such place as the Board may from time to time determine.

(2) Except where otherwise provided in these regulations, the quorum for meetings of the Board shall be of half the number of members plus one.

(3) The meetings of the Board shall be presided by the Chairman or, in his absence, the Deputy Chairman or a member appointed by the Board to preside the meeting.

(4) The Head (Detention Services)*, hereinafter referred to as "the Head", may attend the whole or any part of a meeting of the Board if so invited by the Board and shall give to the Board any information it may require for the due exercise of its functions.

(5) Minutes of the proceedings and deliberations of the Board shall be drawn up by the Secretary of the Board and the relative Minutes Book shall be kept in his custody. Such minutes shall be read and confirmed at the first meeting after the meeting to which they relate, or any subsequent meeting, and shall be signed by the Chairman or other member presiding the meeting at which they are confirmed and by the Secretary.

(6) Evidence on oath, in connection with a complaint or an enquiry under these regulations, may be heard by one or more of the Board's members as may be designated for that purpose by the Board which shall also designate the member who will administer the oath.

Visits and inspections by the Board.

5. (1) The Board shall visit and inspect detention centres not less than once a month in such manner as the Board deems convenient.

(2) If the Board so requests, such visits and inspections shall be attended by the Head and any other officer designated by the Head.

(3) The detainees shall be asked if they have any complaints to make with regard to their treatment in the detention centres and any detainee wishing to make a complaint shall be heard in such part of the centre as the Board may deem fit:

Provided that no sanction shall be ordered, applied, permitted or tolerated against any person or organization for having communicated to the Board any information, whether true or false, and no such person or organization shall be otherwise prejudiced in

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*L.N. 251 of 2012: In relation to the monitoring of involuntary returns, references to the "Head (Detention Services)" or "Head" shall, mutatis mutandis, be construed as references to the Principal Immigration Officer.
any way.

(4) Neither the Head nor any other officer shall be present while a detainee is making a complaint before the Board. The Head, however, shall be heard on any such complaint.

(5) The Board shall keep a record of all complaints made to it by detainees and its decision thereon, and shall, if it deems necessary, take the sworn evidence of the complainant and of such officers and other detainees or other persons as the Board may deem relevant. The oath shall be administered by the Chairman or other member presiding.

(6) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

(7) Where it is not considered practicable by the Board to carry out a visit or an inspection under the foregoing provisions of this regulation by all the members of the Board, a visit or an inspection carried out by not less than three members designated for such purpose by the Board shall be deemed a visit or an inspection carried out by the Board, and the foregoing provisions shall apply to any such visit or inspection in the same manner and to the like effect as to one carried out by the Board. Any record kept by the members carrying out such a visit or inspection and any complaint received by such members shall be referred to the Board at its next meeting and entered in the minutes, provided that if it is necessary to hear any evidence on oath during any such visit or inspection the oath may be administered by any one of the members conducting the visit or inspection.

(8) The members of the Board may also make such visits or inspections either together or separately at any time, whether by day or night, whenever they consider it desirable to do so. Such visits or inspections may also be made without prior notice to the Head. A report of such visits or inspections shall be made to the Board at its next meeting unless the members carrying out the visit or inspection consider to inform the Board earlier through the Chairman.

6. It shall also be the duty of the Board to hear and decide upon, as soon as practicable, any request or complaint made to it by a detainee, or any person on his behalf, other than those made directly to it or to any of its members during the course of a visit or inspection.

7. (1) The decisions of the Board shall be taken by a majority of the members present and voting. In the case of an equality of votes the Chairman shall have a casting vote in addition to his original vote.

(2) The decisions of the Detention Board shall not be binding upon the Head but it shall be the duty of the Head to take serious cognizance of the recommendations of the Board following a decision taken as provided in subregulation (1) and to enter into a dialogue with the Board on possible implementation measures. When the Head, or any other officer acting on his behalf, is of the
opinion that the recommendations of the Board cannot be implemented for reasons which are in the best interests of the detention centre administration, an explanation in writing of these reasons shall, within one month of the date of receipt of the Board’s recommendations, be forwarded to the Chairman of the Detention Board and copied to the Minister, or to a person delegated by him. The Minister, or the person delegated by him, may confirm or vary the decision of the Head.

8. (1) The members of the Board shall make a note in the official Visitors’ Book of every visit or inspection made by them, with such remark as they deem proper in regard to the detention centres and the detainees.

(2) The official Visitors’ Book shall be produced to the Board at each monthly meeting and at such other times as the Board may require.

(3) The Minister may request to examine the official Visitors’ Book and the minutes book of the Board.

9. (1) No person having any interest in any contract for the supply of goods or services to the detention centres shall be a member of the Board.

(2) If any member of the Board is related by consanguinity or affinity, up to the fourth degree inclusive, to any detainee or has any professional interest in any detainee, other than as a member of the Board, he shall forthwith make a declaration of such relationship or interest to the Board and such declaration shall be entered in the minutes. The said member shall thereafter abstain from taking part in the proceedings and deliberations of the Board on any question relating to such detainee and from voting thereon.

(3) A member who absents himself without valid reason for more than four consecutive meetings shall be considered as having resigned his post.

10. The Board shall draw the attention of the Head to any matter which calls for his attention and shall report to the Minister any matter which it considers expedient to report to him.

11. The Board shall inform the Minister immediately of any abuse which comes to its knowledge and shall have power to recommend to the appropriate authority the taking of disciplinary action against any officer.

12. The Board shall arrange for the food of the detainees to be inspected by a member of the Board at frequent intervals.

13. The Board shall inquire into any report made to it, or any information otherwise coming to its knowledge, that a detainee’s health, mental or physical, has been or is likely to be injuriously affected by any conditions of his detainment.

14. (1) The Board and every member thereof shall have access at any time to every part of the detention centres and to every detainee and may interview any detainee out of the sight and hearing of all officers.
(2) The Board and every member thereof shall have access to all detention centres’ records.

15. (1) The Board shall make an annual report to the Minister at the end of each year concerning the state of the detention centres and their administration and, generally, the carrying out of its functions.

(2) Confidential information collected by the Board shall be privileged and no personal data shall be published without the express consent of the person concerned.
1. (1) The title of these regulations is the Conditions of Admission of Third-country Nationals for the purposes of Studies Regulations.

(2) The purpose of these regulations is to determine the conditions and rules for admission of third-country nationals to Malta for a period exceeding three months for the purposes of studies.

(3) These regulations transpose Commission Directive 2004/114/EC of the 13th December, 2004 requiring Member States to take measures relating to the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary services.

2. For the purposes of these regulations, unless the context otherwise requires -

"the Act" means the Immigration Act;

"the Director" means the Director for Citizenship and Expatriate Affairs;

"employment", for the purpose of these regulations, shall not include self-employment;

"establishment" means;

(a) a publicly funded institution of higher education, established under the Education Act; or

(b) a private higher education institution as recognized by the National Commission for Higher Education;

"the European Union" means the European Union as referred to in the Treaty;

"Member State" means a State which is a member of the European Union;

"national minimum wage" means the wage published by means of a national minimum wage national standard order under the Employment and Industrial Relations Act;

"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 European Union;
"student" means a third-country national accepted by an establishment of higher education and admitted to pursue as his main activity a full-time course of study leading to a higher education qualification recognised by the Malta Qualification Recognition Information Centre, including diplomas, certificates or doctoral degrees in an establishment of higher education, which may cover a preparatory course prior to such education according to law;

"third-country national" means any person who is not a citizen of the European Union.

Applicability of these regulations.

3. (1) These regulations shall apply to a third-country national who submits an application to be admitted to reside in Malta for the purpose of studies.

(2) These regulations shall not apply to:

(a) third-country nationals residing in Malta as asylum seekers or under a subsidiary form of protection, or under temporary protection schemes;

(b) third-country nationals whose expulsion has been suspended for reasons of fact or of law;

(c) third-country nationals who are family members of citizens of the European Union who have exercised their right to free movement within the European Union in accordance with the Free Movement of European Union Nationals and their Family Members Order;

(d) third-country nationals who enjoy long-term resident status in another Member State and exercise their right to reside in Malta in order to study in accordance with the Status of Long Term-Residents (Third Country Nationals) Regulations; and

(e) third-country nationals who have registered their employment or self-employment with the Employment and Training Corporation in accordance with the Manpower Records (Commencement or Termination of Employment) Regulations.

More favourable provisions.

4. (1) These regulations shall be without prejudice to more favourable provisions of bilateral or multilateral agreements which Malta may have with the Community, other Member States or third countries.

(2) Procedures regarding entry and residence in Malta of third country nationals who participate in Community programmes, shall be facilitated.

Conditions for admission.

5. The admission of a third-country national under these regulations shall be subject to the verification of documentary evidence showing that such national meets the conditions laid down in regulations 6 and 7.

General conditions.

6. A third-country national who applies to be admitted for the purposes set out under this regulation and regulation 8 shall submit
to the Director an application for a residence permit for the said purposes and:

(a) present a valid passport whose validity shall cover the duration of the course of studies to be undertaken;

(b) in the case of a minor, present a parental declaration authorizing the minor to reside in Malta for the purposes of studies for the duration of the course;

(c) without prejudice to the provisions of the Healthcare Fees Regulations, present proof that he is covered by sickness insurance in respect of all risks against sickness normally covered for Maltese nationals by the Government of Malta;

(d) present proof that he has been accepted by an establishment to follow a full-time course of study recognized by the Malta Qualification Recognition Information Centre:

  Provided that where the third country national is applying to study at a private institution for a degree to be awarded by a non-Maltese educational entity, the third country national shall provide evidence that he has registered as an external student with such entity;

(e) provide evidence that during his stay he will have sufficient funds to cover his subsistence which will be equivalent to a minimum of seventy-five percent of the national minimum wage calculated on a weekly basis for the duration of his stay in Malta, tuition fees and return travel costs:

  Provided that paragraph (e) shall apply without prejudice to an individual examination of each case by the Director;

(f) provide evidence of sufficient knowledge of the language of the course to be followed by such national;

(g) provide proof that he has paid the fees charged by the establishment, where applicable.

7. (1) Without prejudice to regulations 9 and 10(1), a third-country national who has already been admitted as a student in another Member State and applies to follow in Malta part of the studies already commenced, or to complement them with a related course of study in Malta, shall be issued with an entry visa, where required, within a period that does not hamper the pursuit of the relevant studies, whilst leaving the Director sufficient time to process the application for a residence permit, if the student:

(a) meets the conditions referred to in regulation 6 in the said other Member State; and

(b) has sent, with his application, full documentary evidence of his academic record and evidence that the course he wishes to follow genuinely complements the one he has completed in the other Member State; and
(c) participates in a Community or bilateral exchange programme or has been admitted as a student in the other Member State for not less than two years:

Provided that the requirements referred to in paragraph (c) shall not apply in the case where the student, in the framework of his programme of studies, is obliged to attend a part of his courses in an establishment of another Member State.

(2) The Director may request the Member State of residence of the student to provide the appropriate information in relation to the stay of the student in the territory of that Member State.

(3) At the request of the competent authorities of another Member State, the Director shall provide information in relation to the stay of a third country national student who has moved from Malta to the said Member State to follow part of the studies already commenced in Malta or to complement them with a related course and to whom a residence permit has been issued by the Director.

Issue of residence permit.

8. The Director shall issue a residence permit to the student for a period of at least one year if such student meets the conditions laid down in regulation 6 as long as the student is not regarded as a threat to public policy, public security and public health:

Provided that where the duration of the course of study is less than one year, the permit shall be issued for the duration of the course:

Provided further that the issuing of the residence permit shall be made subject to the student successfully undergoing a health screening as will be determined at the time by the Superintendent of Public Health.

Withdrawal or non-renewal of residence permit.

9. The Director may withdraw or refuse to renew a residence permit issued on the basis of these regulations:

(a) when the residence permit has been fraudulently acquired; or

(b) wherever it appears that the applicant did not meet or no longer meets the conditions laid down in the provisions of regulation 6; or

(c) when he does not respect the limits imposed on access to economic activities in accordance with regulation 11; or

(d) when he does not make acceptable progress in his studies; or

(e) on grounds of public policy, public security or public health.

Procedural guarantees and transparency.

10. (1) The Director shall take a decision on an application to obtain or renew a residence permit and notify the applicant thereof within a period that does not hamper the pursuit of the relevant studies, whilst leaving the Director sufficient time to process the application:
Provided that if the information supplied in support of the application is inadequate, processing of the application may be suspended and the Director shall inform the applicant of any further information he needs.

(2) The Director shall give the student who has submitted an application to obtain or renew a residence permit, written notification of his rejection of the application or, in the case of the withdrawal of the permit, notification of the procedures available and the time limit for lodging an appeal to the Immigration Appeals Board.

(3) Where the Director takes a decision to reject an application or to withdraw a residence permit in accordance with regulation 9, the student shall have the right to appeal against such decision to the Immigration Appeals Board.

11. Students holding a residence permit shall be entitled to take up employment, for a maximum period of ten hours each week, as long as they are in possession of an employment licence issued in terms of article 11(3) of the Act:

Provided that the student shall not be so entitled during his first year of residence in Malta in terms of these regulations:

Provided further that the employment licence shall not be issued if, after an examination of the labour market situation in Malta, it appears to the Minister responsible for labour that the issue of such licences shall have adverse effects on the said labour market.
THIRD COUNTRY NATIONALS FOR SCIENTIFIC RESEARCH PURPOSES (SPECIFIC ADMITTANCE PROCEDURE)

SUBSIDIARY LEGISLATION 217.10
THIRD COUNTRY NATIONALS FOR SCIENTIFIC RESEARCH PURPOSES (SPECIFIC ADMITTANCE PROCEDURE) REGULATIONS

7th March, 2008

LEGAL NOTICE 102 of 2008.

PART I
CITATION AND INTERPRETATION

1. (1) The title of these regulations is the Third Country Nationals for Scientific Research Purposes (Specific Admittance Procedure) Regulations.

(2) The purpose of these regulations is to determine the conditions for the admission of third country researchers to Malta for a period of more than three months for the purposes of carrying out a research project under a hosting agreement with a research organization.


2. In these regulations, unless the context otherwise requires:

- "Act" means the Immigration Act;
- "the Board" means the Immigration Appeals Board constituted under article 25A of the Act;
- "the Council" means the Malta Council for Science and Technology;
- "the Director" means the Director for Citizenship and Expatriate Affairs;
- "Member State" means any State which is a member of the European Union;
- "third country national" means any person who is not a citizen of a Member State;
- "research" means creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications;
- "research organisation" means any public or private organisation which conducts research and which has been approved for the purposes of these regulations by the Council in accordance with the procedures the Council may issue from time to time;
- "researcher", for the purposes of these regulations, means a third
country national holding an appropriate higher education qualification which gives access to a doctoral programme, who is selected by a research organisation for the carrying out of a research project for which such qualification is normally required;

"residence permit" bearing thereon the term "researcher" means a uniform residence permit issued under the Immigration Regulations to a researcher.

3. These regulations shall apply to third country nationals who apply to be admitted to Malta for the purpose of carrying out a research project:

Provided that these regulations shall not apply to third country nationals:

(a) who are in Malta or another Member State as applicants for international protection or reside therein under a temporary protection scheme;

(b) who have applied to reside in Malta as students within the terms of the Conditions of Admission of Third-country Nationals for the purposes of Studies Regulations;

(c) whose removal from Malta has been suspended in terms of the Act;

(d) who are researchers seconded by a research organization in another Member State to a research organisation in Malta.

PART II
RESEARCH ORGANISATIONS

4. (1) A research organisation wishing to host a researcher under the terms laid down in these regulations shall be approved for that purpose by the Council in accordance with procedures established by it.

(2) The approval given by the Council under sub-regulation (1) shall be valid for a period of not less than five years or, in exceptional cases, for a shorter period.

(3) In January of each year, the Council shall publish a list of the research organizations approved for the purposes of these regulations in the Gazette and on the Council’s official website.

(4) The Council shall refuse to renew or shall withdraw the approval of a research organization:

(a) which no longer meets the conditions laid down by the Council for the purposes of sub-regulation (1) and the provisions of regulation 6(2)(c); or

(b) which fails to provide to the Council, within two months of the date of expiry of the hosting agreement referred to in regulation 5, with confirmation that the work has been carried out for each of the research projects in respect of which a hosting agreement has been signed; or
(c) in cases where the approval has been fraudulently acquired; or

(d) where the said research organization has signed a hosting agreement with a third-country national fraudulently or negligently.

(5) Where approval for a research organization has been refused or withdrawn for the reasons stated in sub-regulation (4), such organization shall not reapply for approval for a period to be determined by the Council which period shall not exceed five years from the date of the notification of the decision on withdrawal or non-renewal.

5. (1) A research organisation wishing to host a researcher shall sign a hosting agreement with such researcher in accordance with procedures established by the Council and subject to the conditions of regulation 6, whereby the researcher undertakes to complete the research project and the organisation undertakes to host the researcher for that purpose.

(2) The hosting agreement shall automatically lapse when the researcher is not admitted to Malta or when the legal relationship, provided for in regulation 6(2)(b), between the researcher and the research organization is terminated.

(3) Research organizations shall promptly inform the Council of any occurrence likely to prevent implementation of the hosting agreement.

PART III

ADMISSION OF RESEARCHERS

6. (1) A third-country national who wishes to be admitted for the purposes set out in these regulations shall submit an application for a residence permit to the Director, whether he is residing in or outside Malta:

Provided that, without prejudice to any right of residence that the applicant may enjoy in Malta, such application shall be considered by the Director whilst the applicant is residing outside Malta.

(2) Together with his application, the applicant shall submit:

(a) a valid travel document which shall be valid, at least, for the duration of the residence permit;

(b) the hosting agreement, which shall specify the legal relationship and working conditions of the researcher, duly signed by the researcher and the research organization, provided that the following conditions have been met:

(i) the research project has been accepted by the relevant authorities in the research organization, after the said authorities have examined the purpose, the duration of the research, the availability of the necessary financial resources for it to be carried out and the researcher’s
qualifications, in the light of the research objectives, which qualifications should be evidenced by a certified copy of his qualification;

(ii) during his stay, the researcher has sufficient monthly resources equivalent to, at least, the amount of the national minimum wage in Malta with an addition of another twenty percent income or resources for each member of the family without recourse to the social assistance system in Malta, and return travel costs;

(iii) during his stay, the researcher has sickness insurance for all risks normally covered for Maltese nationals for himself and for his family;

(c) a declaration by the research organization of its financial responsibility, which shall end, at the latest six months after the termination of the hosting agreement, that where the researcher remains illegally in Malta, the said organization shall be responsible for reimbursing the costs related to his stay and return, if such expenses are incurred by the Government of Malta.

Residence permits.

7. (1) When the Director is satisfied that the conditions of the provisions of regulation 6 have been complied with, and the third country national is not considered to be a threat to public policy, public security and public health, the Director shall notify the third country national that a residence permit will be issued to him.

(2) The researcher shall be given every facility to obtain a visa, when this is required, to enter Malta.

(3) The Director shall issue a residence permit to the third country national researcher for a period of one year, which shall be renewable, or for the duration of the project if it is scheduled to last less than one year:

Provided that the Director shall not renew such permit if the conditions laid down in regulation 6 no longer subsist.

Director may withdraw etc., residence permit.

8. The Director may withdraw or refuse to renew a residence permit issued under these regulations:

(a) when the residence permit has been fraudulently acquired;

(b) wherever it appears to the Director that the holder did not meet, or no longer meets, the conditions for entry and residence provided by regulation 6;

(c) wherever it appears to the Director that the holder is residing for purposes other than those for which he was authorized to reside;

(d) for reasons of public policy, public security or public health.
9. The following members of the family of the researcher shall be allowed to accompany or to join him during the period of the validity of his residence permit:

(a) his spouse:

Provided that in the event of a polygamous marriage, where the researcher already has a spouse living with him in Malta, the Director shall not authorize a further spouse to join the researcher; and

(b) the unmarried minor children of the researcher and of his spouse, including adopted children.

10. (1) Subject to the provisions of these regulations, a family member who wishes to reside in Malta with the researcher shall, on application to the Director, be issued with a residence permit valid for the duration of the residence permit of the researcher, insofar as the period of validity of their travel documents allows it:

Provided that in duly justified cases, the duration of the said residence permit may be shortened.

(2) Without prejudice to any provisions regarding employment provided for in the Act or regulations made thereunder, the spouse shall have access to employment during the validity of the residence permit.

PART IV
RESEARCHERS’ RIGHTS

11. The researcher may carry out teaching activities in accordance with guidelines issued by the Council.

12. Researchers holding a residence permit shall be entitled to equal treatment as nationals with respect to:

(a) the recognition of diplomas, certificates and other professional qualifications in accordance with the Mutual Recognition of Qualifications Act and any regulations made thereunder, and other relevant legislation;

(b) conditions relating to work, including pay and dismissal;

(c) branches of social security as defined in Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community:

Provided that the special provisions in the Annex to Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality shall apply accordingly;

(d) tax benefits;
(e) access to goods and services and the supply of goods and services made available to the public.

13. (1) A third-country national who has been admitted as a researcher in another Member State shall be allowed to carry out part of his research in Malta subject to the following conditions:

(a) if the researcher’s stay in Malta does not exceed a period of three months, the research may be carried out on the basis of the hosting agreement concluded in the first Member State, provided that the researcher has sufficient resources in Malta as established in regulation 6(2)(b)(ii) and is not considered as a threat to public policy, public security or public health in Malta;

(b) if the researcher’s stay in Malta is for a period of more than three months, the provisions of regulation 6 shall apply.

(2) Where a visa or a residence permit is required for the researcher to conduct the necessary research, the relative application shall be submitted, and the visa or residence permit shall be granted, in a timely manner:

Provided that the researcher shall not be required to leave Malta in order to submit an application for the necessary visa or residence permit.

PART V
PROCEDURES

14. (1) The Director shall adopt a decision on the application as soon as possible and, where appropriate, provide for accelerated procedures:

Provided that if the information supplied in support of the application is inadequate, the consideration of the application may be suspended and the Director shall inform the applicant of any further information that would be required.

(2) Where the Director has taken a decision to reject an application for a residence permit, he shall notify in writing the third-country national concerned of his decision and of his right about the redress procedures available and the time limit for taking action for such redress.

(3) Where an application is rejected, or a residence permit, issued in accordance with these regulations, is withdrawn, the person concerned shall have the right to appeal to the Board.
AGENCY FOR THE WELFARE OF ASYLUM SEEKERS

SUBSIDIARY LEGISLATION 217.11

AGENCY FOR THE WELFARE OF ASYLUM SEEKERS REGULATIONS

17th July, 2009

LEGAL NOTICE 205 of 2009.

1. The title of these regulations is the Agency for the Welfare of Asylum Seekers Regulations.

2. In these regulations, unless the context otherwise requires:

"financial year" means the financial year of the Agency which shall commence on the 1st January and shall end on the 31st December of each year:

Provided that the first financial year shall commence upon the coming into force of these regulations and shall end on the 31st December of the following year;

"Minister" means the Minister responsible for immigration.

3. (1) There shall be an agency known as the Agency for the Welfare of Asylum Seekers (AWAS), hereinafter referred to as "the Agency".

(2) The Agency shall be a body corporate having a distinct legal personality and shall be capable of entering into contracts, of employing personnel, of acquiring, holding and disposing of any kind of property for the purpose of its operations and of suing and of being sued and to which any function or operation of Government may be assigned under this or any other law:

Provided that, and without prejudice to the provisions of article 39 of the Public Administration Act, the Minister responsible for the Agency shall be entitled to give directions in writing, and the Agency and its head shall be bound to observe such directives.

(3) The legal and judicial representation of the Agency shall lie with the Chief Executive Officer or his representative.

(4) The Agency and its employees shall uphold and promote the public service values and those specific to the role of the Agency.

4. (1) The Agency shall enter into an agency performance agreement with the Permanent Secretary responsible thereof, or, where a Permanent Secretary is not appointed, with the Minister, and such agreement shall set out the tasks to be addressed by the Agency, the targets it is expected to meet, and the funds available to it.

(2) The agency performance agreement may cover one or more years and shall be renewable in accordance with such directives and guidelines as the Principal Permanent Secretary may issue governing the development of agency performance agreements.
5. (1) There shall be a Chief Executive Officer who shall have the overall responsibility for the running of the Agency and have legal representation thereof.

(2) The Chief Executive Officer shall be appointed directly by the Minister from among public officers or from among persons who in each case, in the opinion of the Minister, have knowledge and experience in matters relating to asylum and asylum seekers, and whose office will be renewable for periods of three years:

Provided that the Minister may appoint an advisory board of not less than two and not more than four members to assist the Chief Executive Officer in the discharge of his duties.

(3) In the discharge of his duties the Chief Executive Officer shall:

(a) maintain the highest standards of the profession in this field;
(b) be responsible for the implementation of all legislation relating to the welfare of the Agency’s clients;
(c) draw up business plans according to current norms and procedures to provide for the physical, human and technological resources necessary for the Agency to carry out its function;
(d) draw up an Agency performance agreement setting out the tasks to be addressed;
(e) draw up annual activity reports and audited financial statements;
(f) ensure that the Agency upholds the highest public code of ethics;
(g) advise the Minister in matters falling under the competence of the Agency; and
(h) undertake other duties that may be assigned to him from time to time by the Minister or his representative.

4. (a) The Chief Executive Officer or any member of the Board may resign from his/her office by letter addressed to the Minister.

(b) The Chief Executive Officer or any member of the Board may be removed from office by the Minister on the grounds of gross negligence, incompetence, or acts of omission or misconduct.

6. (1) The function of the Agency shall be the implementation of national legislation and policy concerning the welfare of refugees, persons enjoying international protection and asylum seekers.

(2) In the performance of its functions, the Agency shall:

(a) oversee the daily management of accommodation facilities either directly or through subcontracting agreements;
(b) provide particular services to categories of persons
identified as vulnerable according to current policies;

(c) provide information programmes to its clients in the areas of employment, housing, education, health and welfare services offered under national schemes;

(d) act as facilitator with all public entities responsible for providing services to ensure that national obligations to refugees and asylum seekers are accessible;

(e) promote the Government’s policy and schemes regarding resettlement and assisted voluntary returns;

(f) maintain data and draw up reports that are considered relevant for its own function and to provide statistics to appropriate policy-making bodies;

(g) advice the Minister on new developments in its field of operation and propose policy or legislation required to improve the service given and fulfil any legal obligations in respect of its service users;

(h) encourage networking with local voluntary organisations so as to increase the service standards as well as academic research;

(i) work with other public stakeholders and, where possible, offer its services to asylum seekers accommodated in other reception centres not under its direct responsibility; and

(j) implement such other duties as may be assigned to it by the Minister or his representative.

7. (1) The Agency shall draw up yearly estimates for each financial year and submit them for the consideration of the Minister in accordance with norms and practices established by the Minister responsible for finance.

(2) The Agency shall be paid by Government out of the Consolidated Fund such sums as the House may from time to time authorise to be appropriated to meet the cost of its operational and capital expenditure identified in its financial business plan.

(3) In the conduct of its affairs the Agency may levy fees for services related to the on-going upkeep and maintenance of the centres under its responsibility.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister may, after consultation with the Minister responsible for finance, from time to time give, be applied by the Agency to the formation of reserve funds to be used for the purposes of the Agency; and without prejudice to the generality of the powers given to the Minister by this sub-regulation, any directive given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the directive, of any part of the fees, rates and other payments levied in accordance with sub-regulation (3) or any such excess as aforesaid.

(5) Any funds of the Agency not immediately required to meet expenditure may be invested in such manner as may from time to
time be approved by the Minister.

8. (1) The Agency shall keep proper accounts and other records in respect of its operations and shall cause to be prepared a statement of accounts in respect to each financial year.

(2) Such accounts shall be audited by an auditor or auditors appointed for this purpose by the Agency with the concurrence of the Minister responsible for finance and the Minister:

Provided that the Minister responsible for finance may, after consultation with the Minister, require moreover that the books and accounts of the Agency be audited or examined by the Auditor General who shall for this purpose have the power to carry out such physical checking and any other certifications as he may deem necessary.

9. Without prejudice to any directions communicated by the Minister under regulation 3(2), the Agency shall not, except with the approval of the Minister granted for special reasons and after consultation with the Minister responsible for finance, award or enter into any contract for the supply of goods or material or for the execution of works, or for the rendering of services, to or for the benefit of the Agency, which is estimated by the Agency to exceed seven thousand and five hundred euro (€7,500) or such other amount as the Minister responsible for finance may by regulations prescribe, except after notice of the intention of the Agency to enter into the contract has been published and competitive tenders have been issued in accordance with the Financial Administration and Audit Act as far as these apply to government agencies.

10. (1) The Agency shall, not later than six weeks after the end of each financial year, make and transmit to the Minister a report dealing generally with the activities of the Agency during that financial year and containing an audited statement of accounts together with such information relating to the proceedings and workings of the Agency to fulfil its function and future plans.

(2) The report mentioned in sub-regulation (1) shall be laid on the Table of the House by the Minister not later than six weeks after its receipt or, where the House is not in session, not later than the second week after the House resumes its sittings.

11. (1) Without prejudice to the other provisions of these regulations, the appointment of officers and other employees of the Agency shall be made by the Agency. The terms and conditions of employment shall be established by the Agency with the concurrence of the Minister.

(2) The Agency shall appoint and employ, at such remuneration and upon such terms and conditions as it may in accordance with sub-regulation (1) determine, such officers and employees of the Agency as may from time to time be necessary for the due and efficient discharge of the function of the Agency in compliance with established government procedures:
Provided that all employees having an employment contract with the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS) on the date of the coming into force of these regulations will be taken over by the Agency in terms of article 38 of the Employment and Industrial Relations Act and become employees of the Agency.

12. (1) The Prime Minister may, at the request of the Agency, from time to time direct that any public officer shall be detailed for duty with the Agency in such capacity and with effect from such date as may be specified in the direction.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or unless a different date is specified in such direction, cease to have effect after one year from the effective date of such direction unless the direction is revoked earlier by the Prime Minister.

13. (1) Subject to the provisions of article 44 of the Public Administration Act, where any officer is detailed for duty with the Agency under any of the provisions of regulation 11, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Agency, but he shall for all other intents and purposes remain and be considered and treated as a public officer.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid -

(a) shall not, during the time in respect of which he is so detailed -

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Agency; and

(b) shall be entitled to have his service with the Agency considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and under the Widows' and Orphans' Pensions Act and of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the said
(3) Where an application is made as provided in subregulation (2)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for service with the Agency.

(4) The Agency shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Agency as aforesaid during the period in which he is so detailed.

14. (1)(a) The property and undertakings owned by the Government and used by it, immediately before the date of the coming into force of these regulations, and used by it for the operation of any of the functions which by these regulations are being transferred to or vested in the Agency shall, on the aforesaid date, by virtue of these regulations and without further assurance, be transferred to and be vested in the Agency under the same title by which they were held by the Government immediately before the said date. The provisions of this sub-regulation shall not apply to immovable property.

(b) The immovable assets from time to time specified in an order made by the President of Malta and published in the Gazette (hereinafter referred to as "the immovable assets") being immovable assets which, immediately before the coming into force of these regulations, were owned by the Government and used by it for the operation of any of the functions which by these regulations are being transferred to or vested in the Agency shall, with effect from such day as may be specified in any such order, and by virtue of these regulations and without any further assurance, be transferred to and vested in the Agency under the same title by which they were held by the Government before such day.

(2) The aforesaid transfer and vesting of assets shall extend to the whole of such property and undertakings and, without prejudice to the generality of the aforesaid, shall include all plant, equipment, apparata, instruments, vehicles, craft, buildings, structures, installations, land, roads, works, stocks and other property, movable or immovable, assets, powers, rights and privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid property or undertakings or other thing included therein as aforesaid.

15. (1) When anything has been commenced by or under the authority of the Government prior to the date of the coming into force of these regulations, and such thing relates to any of the properties or undertakings or any right or liability transferred to the Agency by or under these regulations, such thing may be carried on
and completed by or as authorised by the Agency.

(2) Where, immediately before the coming into force of these regulations, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the properties or undertakings, or any right or liability transferred by or under these regulations, the Agency shall, as from the aforesaid date, be substituted in such proceedings for the Government, or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

(3) The Minister may by order make such incidental, consequential and supplemental provisions as he may deem necessary or expedient for the purpose of determining, as appropriate, the assets transferred to the Agency by these regulations and securing and giving full effect to the transfer of any property or undertaking or any right or liability to the Agency by these regulations and make such orders as may be necessary to make any powers and duties exercisable by the Government in relation to any of the transferred property or undertakings exercisable by or on behalf of the Agency.
COMMON STANDARDS AND PROCEDURES
FOR RETURNING ILLEGALLY STAYING
THIRD-COUNTRY NATIONALS

SUBSIDIARY LEGISLATION 217.12
COMMON STANDARDS AND PROCEDURES
FOR RETURNING ILLEGALLY STAYING
THIRD-COUNTRY NATIONALS REGULATIONS

11th March, 2011

LEGAL NOTICE 81 of 2011, as amended by Legal Notice 15 of 2014.

PART I
Preliminary

1. (1) The title of these regulations is the Common Standards and Procedures for returning Illegally Staying Third-Country Nationals Regulations.

   (2) These regulations transpose Directive 2008/115/EC of the European Parliament and of the Council of 16th December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights as general principles of Community law as well as international law, including refugee protection and human rights obligations and the principle of non-refoulement.

   (3) These regulations set out common standards and procedures for returning illegally staying third-country nationals.

   (4) These regulations shall not apply to persons who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction or who are the subject of extradition procedures.

2. In these regulations -

   "Act" means the Immigration Act;

   "application for asylum" means an application made by a third-country national or stateless person who has made an application for asylum in respect of which a final decision has not yet been taken by the Commissioner or the Refugee Appeals Board;

   "the Board" means the Immigration Appeals Board as established by article 25A of the Act;

   "competent authority" means that authority designated as such by the Minister for any purpose of these regulations;

   "country of origin" means the country or countries of nationality or, for stateless persons, of former habitual residence;

   "entry ban" means an administrative or judicial decision or act prohibiting entry into and stay in Malta for a specified period, accompanying a return decision;

   "illegal stay" means the presence in Malta of a third-country national who does not fulfil or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other
conditions of entry, stay or residence in Malta;

"international protection" means refugee status or subsidiary protection;

"Member State" means any one of the Member States of the European Union;

"removal order" means an order enforcing the return decision;

"return" means the process of a third-country national going back, whether in voluntary compliance with an obligation to return or enforced to his country of origin; or a country of transit in accordance with Community or bilateral re-admission agreements or other arrangements; or another third country, to which the third-country national concerned voluntarily decides to return and in which he will be accepted;

"return decision" means a decision issued by the Principal Immigration Officer, stating or declaring the stay of a third country national to be illegal and imposing or stating an obligation to return;

"risk of absconding" means the existence of reasons to believe, on the basis of the following criteria, that a third country national who is the subject of return procedures may abscond, when he -

(i) has no permanent address;
(ii) has no, or not enough, resources which are sufficient to maintain himself;
(iii) is considered to be a threat to public policy, public health or national security;
(iv) has not complied with any of the provisions of the Immigration Act and subsidiary legislation made thereunder;
(v) has applied for a residence permit more than once and such application has been refused;
(vi) has failed to cooperate with the Principal Immigration Officer in establishing his identity and nationality;
(vii) has fraudulently provided false identification details or false details regarding his arrival in Malta;
(viii) has destroyed or otherwise disposed of his identification documents;
(ix) is found to be in possession of fraudulent identification documents;

"third-country national" means any person who is not a national of the European Union within the meaning of Article 17(1) of the EC Treaty and who is not a person enjoying the Community right of free movement, as defined in Article 2(5) of the Schengen Borders Code;

"unaccompanied minor" means a person below the age of eighteen years who arrives in Malta unaccompanied by an adult responsible for him whether by law or by custom;
"vulnerable persons" means minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence; and

"voluntary departure" means compliance with the obligation to return within the time-limit fixed for that purpose in the return decision.

PART II
Termination of Illegal Stay

3. (1) Without prejudice to the provisions of sub-regulations (2), (3) and (4), the Principal Immigration Officer shall issue a return decision to any third country national staying illegally in Malta.

(2) The Principal Immigration Officer shall require a third-country national staying illegally in Malta under any of the provisions of article 5 of the Act and holding a valid residence permit or other authorisation offering a right to stay issued by another Member State, to go to the territory of that other Member State immediately:

Provided that the Principal Immigration Officer shall issue a return decision if the third-country national does not comply with the above-mentioned requirement or his immediate departure is justified on grounds of public policy or national security, subject to the provisions of sub-regulations (3), (4), and (7).

(3) The Principal Immigration Officer may refrain from issuing a return decision to a third-country national staying illegally in Malta if the third-country national concerned is taken back by another Member State under a bilateral agreement or arrangement existing on the date of the entry into force of these regulations:

Provided, however, the Principal Immigration Officer may decide to take back into Malta a third-country national staying illegally in another Member State, in which case after taking back the third-country national concerned, the Principal Immigration Officer shall apply the provisions of sub-regulation (2).

(4) Without prejudice to sub-regulation (5), where a third-country national staying illegally in Malta is the subject of a pending procedure for renewing his residence permit or other authorisation offering a right to stay, the Principal Immigration Officer shall consider refraining from issuing a return decision, until the pending procedure is finished:

Provided that the third-country national, while awaiting the permit, shall notify the competent authority of his presence in Malta and the competent authority shall acknowledge such notification.

(5) Nothing in this regulation shall be construed as preventing the Principal Immigration Officer from ending a legal stay and issuing a return decision and, or a decision on a removal and, or entry ban in a single administrative decision.

(6) A return decision accompanied by a removal order shall be
executed on the third-country national leaving the Schengen area from Malta if he fails or ceases to comply with any of the conditions, including an implied condition, under which he was granted leave to land or to land and remain in Malta or was granted a residence permit.

(7) The Principal Immigration Officer shall not issue a return decision where a third-country national staying illegally in Malta is granted a residence permit or a right to stay on compassionate or humanitarian grounds:

Provided that where a return decision has already been issued, it shall be withdrawn or suspended for compassionate or humanitarian reasons and subject to the renewal of the above-mentioned residence permit or right to stay.

(8) The Principal Immigration Officer shall provide, upon request, a written or oral translation of the main elements of a return decision and information on the legal remedies in a language the third-country national may reasonably be supposed to understand.

4. (1) A return decision shall not affect the obligation of any person who does not fulfil or no longer fulfils the conditions of entry, residence or free movement to leave Malta voluntarily without delay.

(2) The Principal Immigration Officer shall inform the third-country national in the return decision that he may submit an application to be granted an appropriate period for voluntary departure, and such period shall be not less than seven days and not more than thirty days, and this without prejudice to the possibility for the third-country national to leave earlier:

Provided that the Principal Immigration Officer shall, where necessary, extend the period for voluntary departure by an appropriate period, taking into account the specific circumstances of the individual case such as health reasons, the length of stay, the existence of children attending school and the existence of other family and social links.

(3) The Principal Immigration Officer may impose for the duration of the period for voluntary departure certain obligations he deems necessary to avoid the risk of absconding.

(4) The Principal Immigration Officer may refuse to grant a period for voluntary departure or may grant a period shorter than seven days where:

(a) there is a risk of absconding; or

(b) the application for legal stay is considered as manifestly unfounded or fraudulent; or

(c) the person concerned is considered to be a threat to public policy, public security or national security.

5. (1) The Principal Immigration Officer shall take all necessary measures to enforce the return decision and issue a removal order if -
(a) no period for voluntary departure has been granted in accordance with regulation 4(4); or

(b) the obligation to return has not been complied with within the period for voluntary departure granted in accordance with regulation 4:

Provided that where it is necessary for the Principal Immigration Officer to confirm the identity of the third-country national concerned, to obtain the necessary documents, or it is possible to return the third-country national concerned he shall place in custody the third-country national who does not return within the period granted to him in the return decision.

(2) If the third-country national has been granted a period for voluntary departure in accordance with regulation 4, the Principal Immigration Officer may enforce the return decision only after the period has expired, unless a risk as referred to in regulation 4(4) arises during that period.

(3) The Principal Immigration Officer shall ensure that the coercive measures used as a last resort to carry out the removal of a third-country national who resists removal are:

(a) proportionate and do not exceed reasonable force; and

(b) executed taking into account the fundamental rights; and

(c) carried out with due respect for the dignity and physical integrity of the third-country national.

(4) The Common Guidelines on security provisions for joint removals by air annexed to Decision 2004/573/EC shall be considered in the case of removals by air.

(5) The Minister responsible for immigration may, by Order, provide for an effective monitoring system for forced return.

6. (1) The Principal Immigration Officer shall not effect removal where:

(a) it violates the principle of non-refoulement; or

(b) an appeal has been filed with the Board in accordance with the provisions of article 25A(7) of the Act and a decision thereon is pending:

Provided that the Principal Immigration Officer may postpone removal for an appropriate period taking into account the specific circumstances of the case, in particular the third-country national’s physical state or mental capacity, or technical reasons.

(2) Where a removal is postponed temporarily in accordance with the provisions of sub-regulations (1)(a) and (b) the Principal Immigration Officer may impose, on the third-country national for the duration of the period for voluntary departure, obligations aimed at avoiding the risk of absconding.
7. (1) The Principal Immigration Officer shall issue a return decision accompanied by an entry ban where:

(a) no period for voluntary departure is granted; or
(b) the obligation to return is not complied with within the period for voluntary departure granted in accordance with regulation 4; or
(c) there is a serious threat to public policy, public security or national security; or
(d) the Principal Immigration Officer may deem necessary in the circumstances.

(2) Return decisions may be accompanied by an entry ban in other cases including those mentioned in regulation 3(5).

(3) An entry ban shall be executed on the third country national leaving the Schengen area from Malta and information on such entry ban shall be provided to him in a language that he may reasonably be supposed to understand.

(4) The length of the entry ban shall be determined subject to all relevant circumstances of the case concerned and shall not exceed five years:

Provided that such entry ban may exceed five years if the third-country national represents a serious threat to public policy, public security or national security.

(5) The Principal Immigration Officer shall consider withdrawing or suspending an entry ban issued in accordance with sub-regulation (2) where the third-country national can demonstrate that he has left Malta in full compliance with a return decision.

(6) Without prejudice to sub-regulation (1)(b) the Principal Immigration Officer shall not issue an entry ban on a third-country national who is a victim of trafficking of human beings and is granted a residence permit in accordance with the provisions of the Permission to Reside for Victims of Trafficking or Illegal Immigration Regulations who cooperate with the Maltese authorities, except where the entry ban is justified on grounds of public policy, public security or national security:

Provided that the Principal Immigration Officer may refrain from issuing, withdrawing or suspending an entry ban in individual cases for humanitarian reasons or other reasons he may deem appropriate.

(7) Where the Maltese authorities are considering whether to grant a residence permit or other authorisation for a right to stay to a third-country national who is issued with an entry ban by another Member State, such Member State shall be first consulted and its interests shall be taken into account in accordance with Article 25 of the Convention implementing the Schengen Agreement.
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(8) The provisions of sub-regulations (1) to (2) and (4) to (7) shall apply without prejudice to the right to international protection as defined in the Procedural Standards in Examining Applications for Refugee Status Regulations.

8. (1) An unaccompanied minor, prior to a decision on the issue of a return decision, shall be allowed to apply for asylum and shall be assisted in terms of the Children and Young Persons (Care Order) Act.
   (2) An unaccompanied minor shall not be removed from Malta before the Principal Immigration Officer, in coordination with the relative diplomatic representation of the third-country in question, is satisfied that he will be returned to a member of his family, a nominated guardian or adequate reception facilities in the State of return.

PART III
Detention

9. (1) Detention shall take place in the place appointed for the purpose by the Minister by notice in the Gazette:
   Provided that a third country national shall, as a general rule, not be detained in prison, and where, due to an exceptional necessity he is detained in prison, such third country national shall be detained separately from ordinary prisoners.
   (2) A third-country national in detention shall be allowed on request and subject to costs to be borne by him to establish in due time contact with legal representatives, without prejudice to the provisions of regulation 11(4), family members and competent consular authorities.
   (3) Vulnerable persons shall be provided with emergency health care and essential treatment of illness.
   (4) Subject to authorisation by the Principal Immigration Officer the competent national, international and non-governmental organisations and bodies shall have the possibility to visit detention facilities where third country nationals are kept in custody.
   (5) A third-country national in detention shall be provided with information concerning the rules applied in the detention facility, his rights and obligations, and his entitlement under Maltese law to contact the organisations and bodies referred to in sub-regulation (4).

10. (1) An unaccompanied minor and a family with minors shall only be detained as a measure of last resort and for the shortest period of time possible.
   (2) Separate accommodation guaranteeing adequate privacy shall be provided to a family in detention pending removal.
   (3) A minor in detention shall have access to leisure activities, including play and recreational activities appropriate to his age, and state education in Malta depending on the length of his stay.
   (4) An unaccompanied minor shall as far as possible be
provided with accommodation in an institution provided with personnel and facilities which takes into account the needs of a person of his age.

(5) The best interests of the child shall be a primary consideration in the detention of minors pending removal.

PART IV
Special Procedural Safeguards

11. (1) The provisions of Part IV, except for the provisions of regulation 5(b) and (d) and of subregulation (8), shall not apply to third-country nationals who are subject to a refusal of entry in accordance with Article 13 of the Schengen Borders Code or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by sea or air of the external border of Malta and who have not subsequently obtained an authorisation or a right to stay in Malta.

(2) A return decision, an entry-ban decision and a removal order shall be issued in writing and shall contain reasons in fact and in law and information on legal remedies:

Provided that the reasons in fact may be given in a restrictive way where the withholding of information is regulated by law, in particular where the disclosure of information endangers national security, public policy, and the prevention, detection, investigation and prosecution of criminal offences.

(3) The Board shall review decisions related to return on application by the third-country national as referred to in subregulation (2), and may temporarily suspend their enforcement.

(4) For the purposes of sub-regulation (3) a legal adviser shall be allowed to assist the third-country national and free legal aid shall be provided to the third-country national, upon request, in accordance with national legislation. Where necessary, free linguistic assistance shall be provided:

Provided that free legal assistance shall only be provided where the review is likely to succeed.

(5) The Principal Immigration Officer shall, except in the case of detention as provided in regulations 9 and 10, ensure that the following principles are taken into account as far as possible in relation to third country nationals during the period granted for voluntary departure in accordance with regulation 4 or the period during which removal is postponed in accordance with regulation 6:

(a) ensure as far as possible, that the third-country national remains in contact with members of his family if they are in Malta at the time;

(b) ensure that as far as possible the third-country national is provided with emergency health care and essential treatment of illness;

(c) ensure that as far as possible a minor has access to state education in Malta depending on the length of his
stay; and

(d) take account as far as possible of the special need of vulnerable persons,

and, where applicable, shall provide these third country nationals with a written confirmation that the period for voluntary departure has been extended in accordance with the proviso to regulation 4(2) or that the return decision will temporarily not be enforced.

(6) Where a third-country national is the subject of return procedures, unless other sufficient and less coercive measures are applicable, the Principal Immigration Officer may only keep him in detention in order to carry out the return and removal procedure, in particular where:

(a) there is a risk of absconding; or

(b) the third-country national avoids or hinders the return or removal procedure:

Provided that the detention shall be for a short period and shall subsist as long as the removal procedure is in progress and is executed with due diligence.

(7) Without prejudice to the provisions of sub-regulation (8), detention shall be a consequence of the removal order issued by the Principal Immigration Officer and the removal order shall contain reasons in fact and in law.

(8) Without prejudice to the provisions of article 25A of the Act, the third-country national subject to the provisions of sub-regulation (6) shall have his detention reviewed either on application or ex officio by the Principal Immigration Officer at reasonable intervals of time which, in any case, shall not exceed three months. In the case of detention periods of six months or more, the Principal Immigration Officer shall carry out such review and notify the Board which shall supervise and, where necessary, revise such review.

(9) Where the third-country national is entitled to institute proceedings as provided in sub-regulation (8) he shall immediately be informed about such proceedings.

(10) The third-country national shall be immediately released from detention where in the opinion of the Board such detention is not lawful.

(11) The third-country national concerned shall be released immediately if:

(a) removal cannot take place due to legal or other considerations; or

(b) the conditions referred to in sub-regulation (6) no longer subsist.

(12) Detention shall be maintained until the conditions laid down in sub-regulation (6) are fulfilled and it is necessary for removal to be carried out:

Provided, however, the period of detention may not exceed six months.
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(13) The period of six months referred to in the preceding proviso may be extendable by a further twelve months where:

(a) there is lack of cooperation by the third-country national; or

(b) there are delays in obtaining the necessary documents form the third country in question.

(14) Where it appears that a reasonable prospect of removal no longer exists for legal or other considerations or the conditions laid down in sub-regulation (6) no longer exist, detention ceases to be justified and the person concerned shall be released immediately.

(15) Where an exceptionally large number of third-country nationals to be returned places an unforeseen heavy burden on the Maltese detention facilities or on its administrative staff or on the Immigration Appeals Board, periods for judicial review longer than those provided for on application by the third-country national concerned may be allowed for as long as the exceptional situation persists.

(16) For the purposes of sub-regulation (6) if the detention period is extended, reviews longer than those provided for under the provisions of sub-regulation (8) shall be subject to the decision of the Principal Immigration Officer and the Immigration Appeals Board, and the provisions of regulations 9(1) and 10(2) shall apply.

PART V
General

12. (1) The Board shall have the power to review decisions related to return and the possibility of temporarily suspending their enforcement:

Provided that where the third-country national is informed about the removal an order postponing such removal shall take place.

(2) The Board shall review any removal postponed for an appropriate period in accordance with regulation 6(2).
The title of these regulations is the Immigration Appeals Board (Division) Regulations.

2. The Immigration Appeals Board shall consist of two divisions, which divisions shall be known as the "Immigration Appeals Board - First Division" and the "Immigration Appeals Board - Second Division".

3. The assignment of cases between the two Divisions of the Immigration Appeals Board shall be made by the Secretary of the First Division of the Board by rotation in such manner that the two Divisions shall, as far as possible, be assigned an equal number of cases.
MINIMUM STANDARDS ON SANCTIONS AND MEASURES AGAINST EMPLOYERS OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS REGULATIONS

4th November, 2011

LEGAL NOTICE 432 of 2011.

1. (1) The title of these regulations is the Minimum Standards on Sanctions and Measures against Employers of Illegally Staying Third-Country Nationals Regulations.


(3) These regulations shall be without prejudice to the provisions of article 32 of the Act.

2. In these regulations, unless the context otherwise requires:

"the Act" means the Immigration Act;

"employer" means any natural person or any legal entity, including temporary work agencies, for or under the direction and, or supervision of whom the employment is undertaken;

"employment" means the exercise of activities covering whatever form of labour or work regulated under Maltese law or in accordance with established practice for or under the direction and, or supervision of an employer;

"illegal employment", for the purposes of these regulations, means the employment of an illegally staying third-country national;

"illegally staying third-country national" means a third-country national present in Malta, who does not fulfil, or no longer fulfils, the conditions for stay or residence in Malta;

"legal person" means any legal entity having such status under applicable Maltese law, except for States or public bodies exercising State authority and for public international organisations;

"Minister" means the Minister responsible for immigration;

"national minimum wage" means the wage published by means of a national minimum wage national standard order under the Employment and Industrial Relations Act;

"particularly exploitative working conditions" means working conditions, including those resulting from gender based or other
discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers which, for example, affects workers’ health and safety, and which offends human dignity;

"remuneration of illegally staying third-country national" means the wage or salary and any other consideration, whether in cash or in kind, which a worker receives directly or indirectly in respect of his employment from his employer and which is equivalent to that which would have been enjoyed by comparable workers in a legal employment relationship;

"temporary work agency" means any natural or legal person who, in compliance with Maltese law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction;

"third-country national" means any person who is not a citizen of the Union within the meaning of Article 20(1) of the Treaty and who is not a person enjoying the Community right of free movement, as defined in Article 2(5) of Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code);

"Treaty" means the Treaty on the Functioning of the European Union.

3. (1) An employer shall be prohibited from employing any illegally staying third-country national.

(2) Infringements of this prohibition shall be subject to the sanctions and measures laid down in these regulations.

(3) The prohibition referred to in sub-regulation (1) shall not apply to illegally staying third-country nationals whose removal has been postponed and who are allowed to work in Malta.

4. (1) An employer shall be obliged to:

(a) require that a third-country national, before taking up the employment, holds and presents to him a valid residence permit or other authorisation for his stay;

(b) ensure that the third-country national is in possession of a valid employment licence;

(c) keep, for at least the duration of the employment, a copy or record of the residence permit or other authorisation for stay available for possible inspection by the competent authorities.

(2) An employer who has fulfilled his obligations set out in sub-regulation (1) shall not be held liable for an infringement of the prohibition referred to in regulation 3 unless the employer knew that the document presented as a valid residence permit or another authorisation for stay was fraudulent.
5. (1) An employer shall be liable, on conviction and in addition to any penalty imposed by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, to pay:

(a) any outstanding remuneration to the illegally employed third-country national. The agreed level of remuneration shall be presumed to have been at least equivalent to the national minimum wage, unless either the employer or the employee can prove otherwise;

(b) an amount equal to any taxes and social security contributions that the employer would have paid had the third-country national been legally employed, including penalty payments for delays and relevant administrative fines;

(c) where appropriate, any cost arising from sending back payments to the country to which the third-country national has returned or has been returned; and

(d) the costs of return of illegally employed third-country nationals in those cases where return procedures are carried out.

(2) The provisions of article 45(1)(f) of the Employment and Industrial Relations Act shall, mutatis mutandis, apply to the penalties imposed on the employer under these regulations.

(3) In the application of sub-regulation (1)(a) and (b), it shall be presumed that the employment contract shall be of at least three months’ duration, unless the employer or the employee can prove otherwise.

(4) The provisions of regulations 4 and 5 of the Permission to Reside for Victims of Trafficking or Illegal Immigration who co-operate with the Maltese Authorities Regulations shall apply in respect of criminal offences falling under the provisions of regulation 7(c) and (e).

(5) For the purposes of these regulations, the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, may, in its judgment, also order that an employer be subject to the following measures:

(a) exclusion from entitlement to some or all public benefits, aid or subsidies, including EU funding managed by the Government of Malta, for up to five years;

(b) exclusion from participation in a public contract as provided in any public procurement regulations on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, for up to five years; and

(c) recovery of some or all public benefits, aid, or subsidies, including EU funding managed by the Government of Malta, granted to the employer for up
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to twelve months preceding the detection of illegal employment.

(6) The provisions of sub-regulation (5) shall not apply where the employer is a natural person and the employment is for his private purposes.

Subcontracting.

6. (1) Where the employer is a subcontractor, the contractor of which the employer is a direct subcontractor may, in addition to or in place of the employer, be liable to pay any financial sanction imposed, and any back payments due, in accordance with regulation 5.

(2) Where the employer is a subcontractor, and where the main contractor and any intermediate subcontractor knew that the employing subcontractor employed illegally staying third-country nationals, they may be liable to make the payments referred to in sub-regulation (1) in addition to or in place of the employing subcontractor or the contractor of which the employer is a direct subcontractor.

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(3) A contractor who has undertaken due diligence obligations as defined in terms of article 1032 of the Civil Code shall not be liable under sub-regulations (1) and (2).

Aggravating circumstances.

7. The offences referred to in regulation 3 shall be considered to be aggravated when:

(a) the infringement continues or is persistently repeated;

(b) the infringement is in respect of the simultaneous employment of a significant number of illegally staying third-country nationals;

(c) the infringement is accompanied by particularly exploitative working conditions;

(d) the infringement is committed by an employer who, while not having been charged with or convicted of an offence of traffic of persons, uses work or services exacted from an illegally staying third-country national with the knowledge that he is a victim of trafficking of persons; and

(e) the infringement relates to the illegal employment of a minor:

Provided that when the criminal offence is aggravated by one or more of the aggravated circumstances referred to in this regulation, the punishment shall be increased by one or two degrees.

Liability of legal persons.

8. (1) Where the person found guilty of an offence under these regulations is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was
found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of these regulations be deemed to be vested with the legal representation of the same body corporate which shall be liable to the payment of a fine (multa) not exceeding two thousand and five hundred euro (€2,500).

(2) The provisions of sub-regulation (1) shall apply where a person is found guilty of an offence under these regulations so however that the body corporate shall for such offence, without prejudice to any other penalty that may have been incurred under any other law, be liable to the punishment of a fine (multa) not exceeding two thousand and five hundred euro (€2,500).

(3) A body corporate may be held liable where the lack of supervision or control, by a person referred to in sub-regulation (1), has made possible the commission of the criminal offence referred to in these regulations for the benefit of that legal person by a person under its authority.

(4) Liability of a legal person under sub-regulations (1) and (2) shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in any of the offences referred to in these regulations.

(5) Without prejudice to any other punishment to which the offence may be liable under any other law, where the offender is a body corporate liable to punishment under the provisions of sub-regulations (2) and (3) the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, may, at the request of the prosecution, order -

(a) the suspension or cancellation of any licence, permit or other authority to engage in any trade, business or other commercial activity;

(b) the temporary or permanent closure of any establishment which may have been used for the commission of the offence;

(c) the compulsory winding up of the body corporate.

9. For the purposes of these regulations, inspections shall be carried out by the competent authorities as may be prescribed by the Minister.
CONDITIONS OF ENTRY AND RESIDENCE OF THIRD-COUNTRY NATIONALS FOR THE PURPOSE OF HIGHLY QUALIFIED EMPLOYMENT

SUBSIDIARY LEGISLATION 217.15

CONDITIONS OF ENTRY AND RESIDENCE OF THIRD-COUNTRY NATIONALS FOR THE PURPOSE OF HIGHLY QUALIFIED EMPLOYMENT REGULATIONS

4th November, 2011

LEGAL NOTICE 433 of 2011.

PART I
GENERAL PROVISIONS

1. (1) The title of these regulations is Conditions of Entry and Residence of Third-Country Nationals for the purpose of Highly Qualified Employment Regulations.


(3) The scope of these regulations is to determine:

(a) the conditions of entry and residence for more than three months in the territory of the Member States of third-country nationals for the purpose of highly qualified employment as EU Blue Card holders, and of their family members; and

(b) the conditions for entry and residence of third-country nationals and of their family members under paragraph (a) in Member States other than the first Member State.

2. For the purpose of these regulations:

"Act" means the Immigration Act;

"Board" means the Immigration Appeals Board constituted by article 25A of the Act;

"Director" means the Director for Citizenship and Expatriate Affairs;

"employment licence" means the licence referred to in article 11(3) of the Act;

"EU Blue Card" means the authorisation bearing the term ‘EU Blue Card’ as the type of permit which shall be issued in the uniform format as laid down in Council Regulation (EC) No. 1030/2002, entitling its holder to reside and work in the territory of Malta under the terms of these regulations;

"family members" means third-country nationals as defined in regulation 4(1) of the Family Reunification Regulations;

"first Member State" means the Member State which first grants...
a third-country national an ‘EU Blue Card’ other than Malta:

Provided that, for the purposes of regulation 17, from the second time that an EU Blue Card holder and, where applicable, his family members, makes use of the possibility to move to another Member State under the terms of Part V, ‘first Member State’ shall be understood as the Member State from where the person concerned moves;

“gross annual salary” means the average annual gross salary published by the National Statistics Office in the Labour Force Survey;

“higher education qualification" means any diploma, certificate or other evidence of formal qualifications issued by a competent authority attesting the successful completion of a post-secondary higher education programme, namely a set of courses provided by an educational establishment recognised by the Malta Qualifications Recognition Information Centre, any other centre which is a member of the ENIC/NARIC networks and as listed by the ENIC/NARIC networks, as a higher education institution by the State in which it is situated;

Provided that for the purposes of these regulations, a higher education qualification shall be taken into account, on condition that the studies needed to acquire it lasted at least three years;

“higher professional qualifications” means qualifications attested by evidence of higher education qualifications or, by way of derogation, when provided for by national law, attested by at least ten years of professional experience of a level comparable to higher education qualifications to be recognised by the relevant national competent authority as mentioned in the Schedule, and which is relevant in the profession or sector specified in the work contract or binding job offer;

“highly qualified employment” means the employment of a person who:

(a) is protected as an employee under the Employment and Industrial Relations Act, irrespective of the legal relationship, for the purpose of exercising genuine and effective work for, or under the direction of, someone else;

(b) is paid; and

(c) has the required adequate and specific competence, as proven by higher professional qualifications;

“ISCO” means International Standard Classification of Occupations;

“professional experience” means the actual and lawful pursuit of the profession concerned,

“regulated profession” means a regulated profession as defined in regulation 3(1)(a) of the Recognition of Professional
QUALIFICATIONS REGULATIONS;

"third-country national" means any person who is not a citizen of the European Union within the meaning of article 20 of the Treaty on the Functioning of the European Union.

3. (1) These regulations shall apply to third-country nationals who apply to be admitted to Malta for the purpose of highly qualified employment under the terms of these regulations.

(2) These regulations shall not apply to third-country nationals:

(a) who are authorized to reside in a Member State on the basis of temporary protection or have applied for authorization to reside on that basis and are awaiting a decision on their status;

(b) who are beneficiaries of international protection under Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted and the Refugees Act and subsidiary legislation made thereunder, or have applied for international protection under that Directive and whose application has not yet given rise to a final decision;

(c) who are beneficiaries of protection in accordance with national law or practice, or international obligations, or have applied for protection in accordance with national law or practice, or international obligations, and whose application has not given rise to a final decision; and

(d) who apply to reside in a Member State as researchers, within the meaning of Directive 2005/71/EC, in order to carry out a research project and who apply to reside in Malta as researchers, within the meaning of the Third-Country Nationals for Scientific Research Purposes (Specific Admittance Procedure) Regulations;

(e) who are family members of Union citizens who have exercised, or are exercising, their right to free movement within the Community in conformity with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States or have exercised their right of free movement in Malta in accordance with the Free Movement of European Union Nationals and their Family Members Order;

(f) who enjoy EC long-term resident status in a Member State in accordance with Directive 2003/109/EC and the provisions of the Status of Long-term Residents
(Third-Country Nationals) (Amendment) Regulations and exercise their right to reside in Malta in order to carry out an economic activity in an employed or self-employed capacity;

(g) who enter a Member State under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories of trade and investment-related natural persons;

(h) who have been admitted to the territory of a Member State as seasonal workers;

(i) whose expulsion has been suspended for reasons of fact or law; and

(j) who are covered by the Posting of Workers in Malta Regulations as long as they are posted in Malta.

(3) These regulations shall not apply to third-country nationals and their family members, whatever their nationality, who, under agreements between the Community and the Member States and those third countries, enjoy rights of free movement equivalent to those of Union citizens.

(4) These regulations shall be without prejudice to any agreement with one or more third countries that lists the professions which should not fall under these regulations in order to assure ethical recruitment, in sectors suffering from a lack of personnel, by protecting human resources in the developing countries which are signatories to these agreements.

PART II
CONDITIONS OF ADMISSION

4. A third-country national shall submit an application for an EU Blue card, endorsed by his employer, to the Director and shall:

(a) present a contract of employment or a statement containing the conditions of employment in terms of the Employment and Industrial Relations Act and regulations issued thereunder, for a minimum period of one year in Malta which contract of employment or statement shall show that the gross annual salary, resulting from the monthly or annual salary specified in the employment contract or statement, shall not be inferior to a relevant salary threshold defined and published for that purpose by Malta, which shall be at least 1.5 times the average gross annual salary in Malta:

Provided that, where the Minister responsible for employment, from time to time, determines a particular need of third-country national workers and which belong to the major groups 1 and 2 of ISCO, the salary threshold may be at least 1.2 times the average gross annual salary in Malta. In this case, the Minister responsible for employment shall communicate each
year to the Commission the list of the professions for which a derogation has been decided;

(b) present a document attesting fulfilment of the conditions set out for the exercise by Union citizens of the regulated profession specified in the contract of employment or statement containing the conditions of employment;

(c) for unregulated professions, present the documents attesting the relevant higher professional qualifications in the occupation or sector specified in the contract of employment or statement containing the conditions of employment;

(d) present a valid travel document, an application for a visa or a visa, if required, and evidence of a valid residence permit or of a national long-term visa, if appropriate. The Director may require the period of validity of the travel document to cover at least the initial duration of the residence permit;

(e) present evidence of having or, having applied for a sickness insurance for all the risks for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or resulting from, the work contract;

(f) present his address in Malta, where available; and

(g) not be considered to pose a threat to public policy, public security or public health.

5. These regulations shall not affect the right of the Minister responsible for employment to determine the volume of admission of third-country nationals entering Malta, for the purposes of highly qualified employment, in line with Malta’s labour market requirements.

PART III
EU BLUE CARD, PROCEDURE AND TRANSPARENCY

6. (1) A third-country national who has applied and fulfils the requirements set out in regulation 4, and for whom the competent authorities have taken a positive decision in accordance with regulation 7, shall be issued with an EU Blue Card and, where applicable, the pertinent authorities grant the third-country national every facility to obtain the requisite visas.

(2) The EU Blue Card shall be valid for a period of, at least, one year:

Provided that in the case of a renewal of an EU Blue Card for the duration of the remaining period of the work contract, where this is less than a year, it shall be renewed for the said remaining period with an additional validity of three months.

(3) The Director shall issue the third-country national an EU Blue Card indicating thereon the conditions for access to the labour market.
(4) During the period of its validity, the EU Blue Card shall entitle its holder to:

(a) enter, re-enter and stay in the territory of the Member State issuing the EU Blue Card; and

(b) the rights recognised in these regulations.

7. (1) The Director shall reject an application for an EU Blue Card whenever the applicant does not meet the conditions set out in regulation 4 or whenever the documents presented have been fraudulently acquired, or falsified or tampered with.

(2) The Minister responsible for employment shall examine the situation of the labour market, apply national procedures regarding the requirements for filling a vacancy and the provisions of article 11 of the Act, and the Director, before taking the decision on an application for an EU Blue Card, and when considering renewals or authorisations pursuant to regulations 11(1) and (2), during the first two years of legal employment as an EU Blue Card holder, shall base his decision thereon.

(3) The Minister responsible for employment may verify whether the vacancy concerned may be filled by:

(a) a Maltese national, or

(b) citizens of other Member States of the European Union who are entitled to equal treatment to Maltese citizens in matters of employment by virtue of EU legislation and Treaty provisions dealing with the free movement of workers; or

(c) a third-country national lawfully resident in Malta and already forming part of its labour market by virtue of EU or Maltese law; or

(d) by an EC long-term resident wishing to move to Malta for highly qualified employment in accordance with the provisions of Part III of the Status of Long-term Residents (Third Country Nationals) Regulations.

(4) An application for an EU Blue Card may also be considered as inadmissible on the grounds of regulation 5.

(5) The Director may reject an application for an EU Blue Card in order to ensure ethical recruitment in sectors suffering from a lack of qualified workers in the countries of origin.

(6) The Director may reject an application for an EU Blue Card if the employer has been sanctioned for undeclared work and, or illegal employment in accordance with these regulations.

8. (1) The Director shall withdraw or refuse to renew an EU Blue Card issued on the basis of these regulations in the following cases:

(a) when it has been fraudulently acquired, or has been falsified or tampered with; or
(b) wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence laid down in these regulations or is residing for purposes other than that for which the holder was authorised to reside; or

(c) when the holder has not respected the limitations set out in regulations 11(1) and (2) and 12.

Provided that the lack of communication pursuant to regulations 11(3) and 12(4) shall not be considered to be a sufficient reason for withdrawing or not renewing the EU Blue Card if the holder can prove that the communication did not reach the competent authorities for a reason independent of the holder's will.

(2) The Director may withdraw or refuse to renew an EU Blue Card issued on the basis of these regulations in the following cases:

(a) for reasons of public policy, public security or public health; or

(b) wherever the EU Blue Card holder does not have sufficient resources to maintain himself and the members of his family, without having recourse to Malta's social assistance system. The Director shall evaluate these resources by reference to their nature and regularity and may take into account the level of average national wages and pensions as well as the number of family members of the person concerned. Such evaluation shall not take place during the period of unemployment referred to in regulation 12; or

(c) if the person concerned has not communicated his address; or

(d) when the EU Blue Card holder applies for social assistance, provided that the appropriate written information has been provided to him in advance by the competent authorities.

9. (1) The application shall be considered and examined either when the third-country national concerned is residing outside Malta or when he is already residing in Malta as holder of a valid residence permit or national long-stay visa.

(2) The third-country national may submit an application when he is not in possession of a valid residence permit but is legally present in Malta.

10. (1) The Director shall adopt a decision on the complete application for an EU Blue Card and notify the applicant in writing, of the decision, as soon as possible and, in any event, not later than ninety days from when the application was lodged:

Provided that, in the event that the Director fails to give a decision within the period specified, the application shall automatically be passed on for appeal to the Board.
(2) Where the information or documents supplied in support of the application are inadequate, the Director shall notify the applicants of the additional information that is required and set a reasonable deadline for providing it. The period referred to in sub-regulation (1) shall be suspended until the Director has received the additional information or documents required. If additional information or documents have not been provided within the deadline, the application may be rejected.

(3) (a) Any decision rejecting an application for an EU Blue Card, a decision not to renew or to withdraw an EU Blue Card, shall be notified in writing to the applicant.

(b) When notifying the applicant of his decision, the Director shall specify reasons for rejecting the application for an EU Blue Card or withdrawing an EU Blue Card and shall inform him about the reasons for the decision, the possible redress procedures available and the time limit for taking action.

**PART IV
RIGHTS**

Labour market access.

II. (1) For the first two years of legal employment in Malta as an EU Blue Card holder, access to the labour market for the person concerned shall be restricted to the exercise of paid employment activities which meet the conditions for admission set out in regulation 4.

(2) For the first two years of legal employment in Malta as an EU Blue Card holder changes in employer and modifications that affect the conditions for admission shall be subject to the prior authorisation, by means of an employment licence, in accordance with the relevant provisions of regulation 7 and within the time limits set out in regulation 10(1).

(3) Without prejudice to any other obligations may be established by any other law, after the first two year period referred to in sub-regulations (1) and (2), the EU Blue Card holder shall submit an application to the Director to communicate changes that affect the conditions of regulation 4.

(4) Access to employment for the EU Blue Card holder shall be restricted in cases where:

(a) such employment activities which entail occasional involvement in the exercise of public authority and the responsibility for safeguarding the general interest of Malta and where, in accordance with existing national or Community law, these activities are reserved to nationals;

(b) employment activities in cases where, in accordance with existing national or Community law, these activities are reserved to nationals, Union citizens or EEA citizens.

(5) Access to the labour market shall be without prejudice to
the principle of Community preference as expressed in the relevant provisions of the Acts of Accession of 2003 and 2005, in particular with respect to the rights of nationals of the Member States to access the labour market.

12. (1) Unemployment in itself shall not constitute a reason for withdrawing an EU Blue Card, unless the period of unemployment exceeds three consecutive months, or if it occurs more than once during the period of validity of an EU Blue Card.

(2) During the period referred to in sub-regulation (1), the EU Blue Card holder shall be allowed to seek and take up employment under the conditions set out in regulation 11.

(3) The EU Blue Card holder shall be entitled to remain in Malta until the necessary authorisation pursuant to regulation 11(2) has been granted or denied. The date of authorisation and communication referred to in regulations 11(2) and (3) shall automatically end the period of unemployment.

(4) The EU Blue Card holder shall communicate the beginning of the period of unemployment to the Director, after having complied with the procedures as set out in the Manpower Records (Commencement or Termination of Employment) Regulations.

13. Without prejudice to the right of the Director to withdraw or refuse to renew the EU Blue Card in accordance with the provisions of regulation 8, EU Blue Card holders shall enjoy equal treatment as Maltese nationals, which shall be as regards:

(a) working conditions, including pay and dismissal, as well as health and safety requirements at the workplace;

(b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

(c) education and vocational training:

Provided that such equal treatment shall not include study and maintenance grants and loans or other grants and loans regarding secondary and higher education and vocational training:

Provided further that:

(i) access to university and post-secondary education may be subject to specific prerequisites in accordance with the Education Act;

(ii) the Member State concerned may restrict equal treatment to cases where the registered or usual place of residence of the EU Blue Card holder, or that of the family member for whom benefits
are claimed, lies within Malta;

(iii) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;

(d) provisions in national law regarding the branches of social security as defined in Regulation (EEC) No. 1408/71. The special provisions in the Annex to Regulation (EC) No. 859/2003 shall apply accordingly;

(e) without prejudice to existing bilateral agreements, payment of income-related acquired statutory pensions in respect of old age, at the rate applied by virtue of the law of the debtor Member State(s) when moving to a third country;

(f) access to goods and services and the supply of goods and services made available to the public as well as information and counselling services afforded by employment offices:
Provided that such access to goods and services shall not include procedures for obtaining housing:
Provided further that this paragraph shall be without prejudice to the freedom of contract in accordance with Community and national law;

(g) free access to the entire territory of the Member State concerned, within the limits provided for by national law.

14. (1) The provisions of the Family Reunification Regulations shall apply:

Provided that the provisions of regulations 5(2) and 13 of the Family Reunification Regulations, family reunification shall not be made dependent on the requirement of the EU Blue Card holder having reasonable prospects of obtaining the right of permanent residence and having a minimum period of residence.

(2) Notwithstanding the provisions of Part III and Part IV of the Family Reunification Regulations, the integration conditions and measures referred to therein may only be applied after the persons concerned have been granted family reunification.

(3) Notwithstanding the provisions of regulation 9 of the Family Reunification Regulations, residence permits for family members shall be granted, where the conditions for family reunification are fulfilled, at the latest within six months from the date on which the application was lodged.

(4) Notwithstanding the provisions of regulation 14(2) of the Family Reunification Regulations, the duration of validity of the residence permits of family members shall be the same as that of the residence permits issued to the EU Blue Card holder insofar as the period of validity of their travel documents allow it.
(5) Notwithstanding the provisions of regulation 15(b) of the Family Reunification Regulations, no time limit in respect of access to the labour market shall apply.

15. (1) The provisions of the Long-Term Residents (Third-Country Nationals) Regulations shall apply.

(2) A third-country national who has been issued with an EU Blue Card by one or more Member States and, having made use of the possibility provided for in regulation 17, is allowed to cumulate periods of residence in different Member States in order to fulfil the requirement concerning the duration of residence provided for in regulation 4(1) of the Status of Long-term Residents (Third-Country Nationals) Regulations, if the following conditions are met:

(a) five years of legal and continuous residence within the territory of the European Union as an EU Blue Card holder; and

(b) immediately prior to the submission of the relevant application, the third-country national has resided legally and continuously in Malta for two years as an EU Blue Card holder.

(3) For the purposes of these regulations only, and without prejudice to the provisions of regulation 4(3) of Status of Long-term Residents (Third-Country Nationals) Regulations, for the purpose of calculating the period of legal and continuous residence in the Community, periods of absence from the territory of the European Union shall not interrupt the period referred to in sub-regulation (2)(a) if they are shorter than twelve consecutive months and do not exceed in total eighteen months within the period referred to in sub-regulation (2)(a) when such absence is due to:

(a) the exercise of an economic activity in an employed or self-employed capacity; or

(b) the performance of a voluntary service; or

(c) study purposes in the country of origin of the third-country national.

(4) Notwithstanding the provisions of regulation 9(1)(c) of the Status of Long-term Residents (Third-Country Nationals) Regulations, a third-country national who has been granted a residence permit under regulation 16, shall lose his long-term residence permit status if he is absent from the territory of the Union for a period of twenty-four consecutive months.

(5) The provisions of sub-regulation (4) shall apply to the family members who have been granted long-term residence of the third-country national.

(6) Regulations 13(e) and 14 shall continue to apply to holders of a long-term residence permit with the remark referred to in regulation 16, where applicable, after the EU Blue Card holder has become an EC long-term resident.
16. The Director shall issue a residence permit, in accordance with regulation 9 of the Status of Long-term Residents (Third-Country Nationals) Regulations to the EU Blue Card holder who fulfils the conditions of regulation 15:

Provided that under the heading ‘remarks’, the phrase ‘Former EU Blue Card holder’ shall be entered.

PART V
MOBILITY OF EU BLUE CARD HOLDERS

17. (1) Subject to the provisions of regulations 4 and 5, a third-country national who has been granted an EU Blue Card in the first Member State may apply for admission to Malta in accordance with these regulations, if he has been in the first Member State for at least eighteen months prior to the date of application:

Provided that as soon as possible and no later than one month after entering Malta, the EU Blue Card holder shall present an application for an EU Blue Card, endorsed by his employer, to the Director and present all the documents proving the fulfilment of the conditions set out in regulation 4:

Provided further that the applicant shall be prohibited to work pending a positive decision on his application:

Provided finally that when the EU Blue Card holder moves to Malta in accordance with this regulation and a positive decision on the issuing of an EU Blue Card has not yet been taken, equal treatment shall be limited in the areas listed in regulation 13, with the exception of regulation 13(b) and (c).

(2) The Director may also accept an application while the EU Blue Card holder is still residing in the territory of the first Member State.

(3) In accordance with the procedures set out in regulation 10, the Director shall process the application and inform in writing the applicant and the first Member State of its decision to:

(a) issue an EU Blue Card and allow the applicant to reside on its territory for highly qualified employment where the conditions set in this regulation are fulfilled and under the conditions set out in regulations 6 to 13; or

(b) refuse to issue an EU Blue Card and oblige the applicant and his family members, in accordance with the provisions of the Act and legislation made thereunder, to leave Malta where the conditions set out in this regulation are not fulfilled.

(4) If the EU Blue Card issued by the first Member State expires during the procedure, the Director or other responsible authorities may issue temporary residence permits or equivalent authorisations, allowing the applicant to continue to stay legally in Malta until a decision on the application has been taken.
(5) The EU Blue Card holder and his employer may be held responsible for the costs related to the return and readmission of the said Blue Card holder and his family members, including costs incurred by public funds, where applicable, pursuant to regulation 3(b).

18. (1) When the EU Blue Card holder moves to Malta in accordance with regulation 17 and when the family was already constituted in the first Member State, the members of his family shall be authorised to accompany or join him in Malta.

(2) No later than one month after entering Malta, the family members shall submit an application for a residence permit as a family member, to the Director:

Provided that where the residence permit of the family members issued by the first Member State expires during the procedure or no longer entitles the holder to reside legally in Malta, the Director shall allow the person to stay in Malta, if necessary by issuing temporary residence permits, or equivalent authorisations, allowing the applicant to continue to stay legally in Malta with the EU Blue Card holder until a decision on the application has been taken.

(3) The Director shall require the family members concerned to present with their application for a residence permit:

(a) their residence permit in the first Member State and a valid travel document, or their certified copies, as well as a visa, if required;

(b) evidence that they have resided as members of the family of the EU Blue Card holder in the first Member State;

(c) evidence that they have a sickness insurance covering all risks in Malta, or that the EU Blue Card holder has such insurance for them.

(4) The Director shall require the EU Blue Card holder to provide evidence that he has:

(a) accommodation regarded as normal for a comparable family in Malta and which meets the general health and safety standards in Malta;

(b) stable and regular resources which are sufficient to maintain himself and the members of his family, without recourse to the social assistance system in Malta and which would be equivalent to, at least, the average wage in Malta with an addition of another twenty percent income or resources for each member of the family.

(5) Derogations contained in regulation 14 shall continue to apply mutatis mutandis.

(6) Where the family was not already constituted in the first Member State, regulation 14 shall apply.
19. (1) The Principal Immigration Officer shall immediately readmit a third-country national holding an EU Blue Card issued by Malta, and his family, without formalities, if such EU Blue Card holder, after having been refused the issue of an EU Blue Card by another Member State, was obliged to return to Malta.

(2) The provisions of sub-regulation (1) shall also apply if the EU Blue Card issued by Malta has expired or has been withdrawn, during the examination of the application by the second Member State.

(3) Upon readmission, the provisions of regulation 12 shall apply.
### CONDITIONS OF ENTRY AND RESIDENCE OF THIRD-COUNTRY NATIONALS FOR THE PURPOSE OF HIGHLY QUALIFIED EMPLOYMENT

**SCHEDULE**  
(Regulation 2)

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1. The title of these regulations is the Immigration Appeals Board (Additional Jurisdiction) Regulations.

2. The Immigration Appeals Board has the competence to hear appeals related to the refusal, annulment or revocation of the visa with reference to the provisions of paragraph (3) of Article 32 and paragraph (7) of Article 34 of the Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

3. The Immigration Appeals Board also has the competence to hear appeals from decisions for the transfer of a third country national from Malta to another Member State in the context of the taking charge or taking back of such person with reference to the provisions of Articles 19 and 20 of Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (known as the Dublin Regulation).
CHAPTER 420

REFUGEES ACT

AN ACT to make provisions relating to and establishing procedures with regard to refugees and asylum seekers.

1st October, 2001


PART I

General Provisions

1. The short title of this Act is the Refugees Act.

2. In this Act, unless the context otherwise requires -

"applicant for asylum" means a third country national or stateless person who has made an application for asylum in respect of which a final decision has not yet been taken by the Commissioner or the Refugee Appeals Board;

"application for asylum" means an application made by a third country national or a stateless person which can be understood as a request for international protection under the Convention;

"the Board" means the Refugee Appeals Board as established by article 5;

"the Commissioner" means the Refugee Commissioner; and includes to the extent and authority given, any other person temporarily authorised in that behalf by the Minister;


"Convention Travel Document" means the travel document referred to in article 28 of the Convention;

"country of origin" means the country or countries of nationality or, for stateless persons, of former habitual residence;

"declaration" means a declaration that a person is a refugee;

"dependent members of the family" means the spouse of the refugee, provided the marriage is subsisting on the date of the refugee’s application, and such children of the refugee who on the date of the refugee’s application are under the age of eighteen years and are not married;

"determining authority" means the Refugee Commissioner;

country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status;

"final decision" means a decision on whether the third country national or stateless person be granted refugee status or subsidiary protection status which is not subject to appeal;

"first country of asylum" means that country where an applicant for asylum:

(a) has been recognised in that country as a refugee and he can still avail himself of that protection; or
(b) he otherwise enjoys sufficient protection in that country including benefiting from the principle of non-refoulement and subject to re-admission to that country;

"the High Commissioner" means the United Nations High Commissioner for Refugees or his representative;

"legal adviser" means a person who is authorised to practise the legal profession in Malta in terms of the Code of Organization and Civil Procedure;

"manifestly unfounded application" means an application

(a) which is not related to refugee grounds as defined in the Convention; or
(b) which is totally lacking in substance and the applicant provides no indications that he would be exposed to fear of persecution in his own country or his story contains no circumstantial or personal details; or
(c) in relation to which the applicant gives clearly insufficient details or evidence to substantiate his claim and his story is inconsistent, contradictory or fundamentally improbable; or
(d) in relation to which applicant bases his application on a false identity or on forged or counterfeit documents which he maintains as genuine when questioned about them; or
(e) in relation to which applicant deliberately made false representations of a substantial nature; or
(f) in relation to which applicant, without reasonable cause and in bad faith, destroyed, damaged or disposed of any passport, other document or ticket relevant to his claim, either in order to establish a false identity for the purpose of his application or to make the consideration of his application by the authorities more difficult; or
(g) in relation to which applicant deliberately failed to reveal that he had previously lodged an application for asylum in another country; or


Refugees

(h) in relation to which the applicant, having had ample earlier opportunity to submit an asylum application, submitted the application in order to forestall an impending removal order from Malta, and did not provide a valid explanation for not having applied earlier; or

(i) in relation to which applicant has flagrantly failed to comply with the substantive obligations imposed by Malta’s legal provisions relating to asylum procedures; or

(j) prior to which the applicant had made an application for recognition as a refugee in a country party to the Convention, and the Commissioner is satisfied that his application was properly considered and rejected in that country and the applicant has failed to show a material change of these circumstances; or

(k) when the applicant for asylum comes from a safe country of origin;

"the Minister" means the Minister responsible for immigration, and any public officer to whom the Minister may delegate in writing any of the duties appertaining to him under this Act;

"prescribed" means prescribed by regulation, rule, order or other instrument made under any of the provisions of this Act empowering the making of any such instrument;

"refugee" means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, as a result of such events is unable or, owing to such fear, is unwilling to return to it, but does not include a person excluded in terms of article 12:

Provided that in the case where a person has more than one nationality, the term "country", mentioned above, shall refer to each country of which he is a national, and such a person shall not be considered as not having the protection of his country if, without any founded fear of persecution, he has not sought the protection of one of the countries of which such a person is a national:

Provided further that:

(a) acts of persecution within the meaning of Article 1A of the Convention must be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the right from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or

(b) be an accumulation of various measures, including violations of human rights, which is sufficiently severe as to affect an individual in a similar manner as in
"refugee status" means the recognition of a third country national or stateless person as a refugee;

"remain" means to remain in the territory, including at the border or in transit zones, of the Member State in which the application for asylum has been made or is being examined;

"Member State" shall have the same meaning assigned to it by article 2 of the European Parliament Elections Act;

"safe country of origin" means a country of which the applicant for asylum:

(a) is a national; or

(b) being a stateless person, was formerly habitually resident in that country and he has not submitted any serious grounds for considering the country not to be a safe country of origin in his particular circumstances;

"safe third country" means a country of which the applicant is not a national or citizen and where -

(a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;

(b) the principle of non-refoulement in accordance with the Convention is respected;

(c) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected;

(d) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Convention;

(e) the applicant had resided for a meaningful period of time prior to his entry into Malta;

"serious harm" means:

(a) death penalty or execution; or

(b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or

(c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict;

"subsidiary protection status" means the recognition of a third country national or a stateless person as a person eligible for subsidiary protection under Part IV;

"unaccompanied minor" means a person below the age of eighteen years who arrives in Malta unaccompanied by an adult responsible for him whether by law or by custom, for as long as he is not effectively taken into the care of such a person and includes any minor who is left unaccompanied after he has entered Malta;
“withdrawal of refugee status” means the decision by a competent authority to revoke, end or refuse to renew the refugee status of a person.

3. This Act incorporates the obligations assumed by Malta under the Convention and its obligations under the Directives.

PART II

Refugee Commissioner

4. (1) There shall be a person who shall be known as the Refugee Commissioner.

(2) The Commissioner shall be appointed by the Prime Minister from among public officers or from among persons who in each case, in the opinion of the Prime Minister, have knowledge and experience in matters relating to refugees.

(3) The Commissioner shall perform such functions as are conferred on him by this Act, and without prejudice to the generality of the above, shall examine applications for refugee status and shall have the power to administer oath to any person.

(4) The Prime Minister may assign public officers to be members of the staff of the Commissioner as he may consider necessary to assist the Commissioner in the performance of his functions.

(5) (a) Without prejudice to the provisions of subarticle (4) there shall be such number of Assistant Refugee Commissioners (hereinafter referred to as Assistant Commissioners) as the Prime Minister may by notice in the Gazette from time to time determine.

(b) The Assistant Commissioners shall be appointed by the Prime Minister from among public officers and from among persons who in each case, in the opinion of the Prime Minister, have knowledge and experience in matters relating to refugees.

(c) The Assistant Commissioners shall under the general direction of the Commissioner have such functions and powers as are conferred on the Commissioner by this Act, and are assigned to each of them by the Commissioner, including the function and power to examine applications for refugee status and to administer the oath to any person, and any reference in this Act, other than in this article to the Commissioner shall be deemed to include also reference to an Assistant Commissioner in the exercise of any function assigned to him by the Commissioner.
5. (1) The Refugee Appeals Board shall consist of a chairperson and two other members who shall be appointed by the Prime Minister from amongst persons of known integrity who appear to him to be qualified by reason of having had experience of, and shown capacity in, matters deemed appropriate for the purpose:

Provided that at least one of the members of the Board shall be a person who has practised as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than seven years.

(2) The members of the Board shall hold office for a period of three years, and shall be eligible for reappointment.

(3) The Minister may also appoint a substitute chairperson and substitute members of the Board to sit on the Board whenever the chairperson or members or any one of them is for some valid reason unable temporarily to attend and participate in the sittings of the Board:

Provided that, as far as practicable, the same chairperson and the same members shall hear and conclude the same case.

(4) (a) There shall be such number of Chambers of the Refugee Appeals Board as the Minister may prescribe.

(b) Where there is more than one chamber of the Board, cases shall be assigned to the various chambers in accordance with such rules as the Minister may prescribe.

(c) Each chamber of the Board shall be composed of a chairperson and two other members as provided in subarticles (1) to (3), which together with all the other provisions of this Act other than this subarticle shall apply with respect to each chamber as if reference therein to the Board were a reference to a chamber of the Board.

6. A member of the Board may only be removed from office by the Prime Minister on the grounds of gross negligence, incompetence, or acts, omissions or conduct unbecoming a member of the Board.

7. (1) The Board shall have power to hear and determine appeals against a recommendation of the Commissioner.

(2) Appeals to the Board shall be made within fifteen days from the notification on the applicant of the recommendation of the Commissioner. Where the appeal is entered by the applicant a copy of the appeal shall be served on the Minister and the Commissioner. Where the appeal is entered by the Minister a copy of the appeal shall be served on the applicant and the Commissioner:

Provided that the Appeals Board may assume that the applicant has implicitly withdrawn his application of appeal when
it is ascertained that:

(a) he has failed to provide information essential to his appeal unless the applicant demonstrates, within a reasonable time, that his failure was due to circumstances beyond his control;

(b) he has abandoned or left without authorization the place where he lived or was held, without contacting the competent authorities within a reasonable time or he has not, within thirty days, complied with reporting duties or other obligations to communicate.

(3) When an appeal is entered by the Minister, an applicant who is in custody in virtue only of a deportation or removal order shall be released pending the decision of the Board.

(4) The Refugee Appeals Board shall, as the particular case may require, make arrangements to procure the attendance of an interpreter to assist at the hearings.

(5) An appellant shall have the right to free legal aid under the same conditions applicable to Maltese nationals.

(6) Provided all the parties agree thereto, the sittings of the Board shall be held in camera.

(7) A representative of the High Commissioner shall be entitled to attend the sittings of the Board.

(8) Subject to regulations made under article 25(1)(b), the Board shall regulate its own procedure. The Board shall also through the Chairperson have the power to administer an oath to any person appearing before it.

(9) Notwithstanding the provisions of any other law, but without prejudice to article 46 of the Constitution of Malta and without prejudice to the provisions of article 4 of the European Convention Act the decision of the Board shall be final and conclusive and may not be challenged and no appeal may lie therefrom, before any court of law, saving the provisions of article 7A.

(10) Where the Board finds in favour of the applicant the Minister shall issue a declaration accordingly.

7A. (1) A person who has applied for asylum may make a subsequent application after a final decision to the Commissioner for Refugees:

Provided that such application shall only be considered on the presentation of new elements or findings, relating to the examination of whether the person making the subsequent application qualifies as a refugee, and of which the applicant could not have been aware or which he could not have submitted.

(2) The person submitting a subsequent application shall:

(a) indicate facts and provide evidence which justify this procedure; and

(b) submit such new information within fifteen days from
the day on which the person making the subsequent application obtained such information.

(3) The examination may be conducted on the sole basis of written submissions and the person making the subsequent application is to be informed of the outcome of the examination and of his right for an appeal.

PART IV

Refugee Status and Subsidiary Protection Status

I - Refugee Status

8. (1) A person may apply to the Commissioner, in the prescribed form, and shall be granted refugee protection, where it is established that he faces a well-founded fear of persecution in his country of origin or habitual residence in terms of the Convention.

(2) A well-founded fear of persecution may be based on events which have taken place after applicant has left his country of origin or activities engaged in by applicant since leaving the country of origin, except when based on circumstances which the applicant has created by his own decision since leaving the country of origin.

(3) If the Commissioner recommends the acceptance of the application, the Minister shall make a declaration that applicant is eligible for refugee status, or appeal against such recommendation.

9. (1) A person shall cease to possess refugee status if he -

(a) has voluntarily re-availed himself of the protection of the country of his or her nationality, or, having lost his nationality, has voluntarily re-acquired it; or

(b) has acquired a new nationality and enjoys the protection of the country of his new nationality; or

(c) has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(d) can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or

(e) is a person who has no nationality and, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, is able to return to the country of his former habitual residence:

Provided that in paragraphs (d) and (e), regard shall be had as to whether the change of circumstances is of such a significant and non-temporary nature that the refugee’s fear of persecution can no longer be regarded as well-founded.

(2) A person who is notified that he has ceased to possess refugee status shall be entitled to appeal against such decision to
the Board within fifteen days of such notification and the provisions of article 7 shall *mutatis mutandis* apply to such appeal. The decision of the Board shall be final.

10. (1) The Minister shall revoke a declaration of refugee status if he is satisfied, after due investigation, that a person to whom a declaration has been given has been erroneously recognized as a refugee on an application which contains any materially incorrect or false information, or was so recognized owing to fraud, forgery, false or misleading representation of a material or substantial nature in relation to the application:

Provided that he shall be informed in writing that his qualification for refugee status is being reconsidered, is given reasons for such reconsideration and is given the opportunity to submit, in a personal interview, reasons as to why his refugee status should not be withdrawn.

(2) The Minister may revoke or refuse to renew the protection granted to a refugee when:

(a) there are reasonable grounds for regarding him as a danger to the security of Malta;

(b) having been convicted by a final judgment of a particularly serious crime, he constitutes a danger to the community of Malta.

(3) A person, in whose regard the Minister has revoked or refused to renew a declaration under subarticles (1) or (2), shall be entitled to appeal against the revocation to the Board within seven days of the notification of the revocation to him, and the provisions of article 7 shall, *mutatis mutandis*, apply to such appeal.

11. (1) The Minister may order the expulsion from Malta of any refugee or persons granted subsidiary protection on grounds of national security or public order, and pending such expulsion such person shall be held in custody.

(2) The provisions of article 7 shall, *mutatis mutandis*, apply to expulsion orders issued under this article.

(3) Any refugee to whom this article applies shall be allowed a reasonable period of time within which to seek legal admission into another country.

12. (1) A third country national or a stateless person is excluded from being a refugee if:

(a) he falls within the scope of Article 1D of the Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, such persons shall *ipsa facta* be entitled to the benefits of this Act; or
(b) he is recognised by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country, or equivalent rights and obligations.

(2) A third country national or a stateless person is also excluded from being a refugee where there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; or

(b) he has committed a serious non-political crime outside the country of refuge, including particularly cruel actions even if committed with an allegedly political objective, prior to his admission as a refugee; or

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

(3) Subarticle (2) applies to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein.

II - Non-refoulement, treatment, resettlement and assistance

13. (1) A person seeking asylum in Malta may apply to the Commissioner in the prescribed form for a declaration and shall be interviewed by the Commissioner as soon as practicable.

(2) An applicant for asylum shall have access to state education and training in Malta and to receive state medical care and services.

(3) Any child or young person below the age of eighteen years falling within the scope of this Act who is found under circumstances which clearly indicate that he is a child or young person in need of care, shall be allowed to apply for asylum, and for the purposes of this Act, shall be assisted in terms of the Children and Young Persons (Care Orders) Act, as if he were a child or young person under such Act.

14. (1) A person shall not be expelled from Malta or returned in any manner whatsoever to the frontiers of territories where the life or freedom of that person would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

(2) The provisions of subarticle (1) shall not apply to a refugee or a person enjoying subsidiary protection in respect of whom there are reasonable grounds for regarding him as a danger to the security of Malta, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community.
15. The Minister may, at the written request of an applicant, or of a recognized refugee or of a person enjoying subsidiary protection, and, where necessary, with the assistance of the High Commissioner, facilitate the resettlement of such person to another country and do all that is required for the purpose.

16. The Commissioner shall ensure as far as possible that the application of this Act is in conformity with accepted international practice, and for this purpose may seek the assistance of the High Commissioner or of any national or international non-governmental body concerned with refugee matters.

III - Subsidiary Protection Status

17. (1) Upon the recommendation of the Commissioner of Refugees, the Minister shall declare that subsidiary protection status be granted to an applicant for asylum whose application has been dismissed but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his country of origin, or in the case of a stateless person, to his country of former habitual residence, would face a real risk of suffering serious harm, and the Commissioner shall continue to be able to make such a recommendation in cases where the real risk of suffering serious harm arises even after a decision not to grant subsidiary protection has been taken:

Provided that a third country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes or is a person who instigates or otherwise participates in the commission of such crimes; or

(b) he has committed a serious crime; or

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations; or

(d) he constitutes a danger to the community or to the security of Malta:

Provided further that paragraphs (a), (b), (c) and (d) shall also apply to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein:

Provided also that the decision concerning the granting of subsidiary protection shall be given in conjunction with the formal determination that the applicant does not meet the criteria of a refugee under this Act.

(2) The Refugee Commissioner may exclude a third country national or a stateless person from being eligible for subsidiary protection if applicant, prior to his admission to Malta, has committed one or more crimes, outside the scope of subarticle (1), which would be punishable by imprisonment had they been
committed in Malta and if applicant left his country of origin solely in order to avoid sanctions resulting from these crimes.

18. The following may be considered as actors of real risk of serious harm in terms of article 17(1):

   (a) the State;
   (b) parties or organizations controlling the State or a substantial part of the territory of the State;
   (c) non-State actors, if it can be demonstrated that the actors mentioned in paragraphs (a) and (b), including international organizations, are unable or unwilling to provide protection against the acts mentioned in article 17(1).

19. (1) Protection may be provided by:

   (a) the State; or
   (b) parties or organizations, including international organizations, controlling the State or a substantial part of the territory of the State.

   (2) Protection is provided when the entities mentioned in subarticle (1) take reasonable steps to prevent the acts mentioned in article 17(1) by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

20. (1) As part of the assessment of the application for international protection, the Refugee Commissioner may determine that the applicant is not in need of international protection if, in the exercise of his functions, he deems that in a part of the country of origin there is no well-founded fear of being subject to the acts mentioned in article 17(1) and the applicant is reasonably expected to stay in that part of the country.

   (2) Subarticle (1) may apply notwithstanding any obstacle or difficulty which the applicant may have to return to his country of origin.

21. Subsidiary protection shall cease if the Minister is satisfied, after consulting the Commissioner, that the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required:

   Provided that regard shall be had as to whether the change of circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.

22. The Minister shall revoke or refuse to renew the subsidiary protection status of a third country national or a stateless person if:

   (a) after having been granted subsidiary protection status, that person should have been or is excluded from
being eligible for subsidiary protection in accordance with article 17(1); or

(b) that person’s misrepresentation or omission of facts, including the use of false documents, were decisive for the granting of subsidiary protection status.

PART V

Accelerated Procedures

23. (1) A person seeking asylum in Malta in terms of article 8 shall be examined under accelerated procedures in accordance with this article when his application appears prima facie to be manifestly unfounded.

(2) Where the Commissioner is prima facie of the opinion, at whichever stage, that the application is manifestly unfounded, the Commissioner shall examine the application within three working days and shall, where applicable, recommend that the application is manifestly unfounded.

(3) The recommendation shall immediately be referred to the Chairman of the Board who shall examine and review the recommendation of the Commissioner within three working days.

(4) The decision of the Chairman of the Board on whether the application is manifestly unfounded shall be final and conclusive and, notwithstanding the provisions of any other law, no appeal or form of judicial review shall lie before the Board or before any other court of law.

(5) Where, following the procedures outlined in the previous provisions of this article, an application is rejected, the Chairman of the Board shall send a copy of the decision with the grounds therefor to the Minister and the Commissioner.

(6) Any interview with the applicant under the foregoing provisions of this article shall, where necessary, be conducted in private and with the assistance of an interpreter. The applicant shall also be informed of his right to obtain the services of a legal adviser to assist him during accelerated proceedings and to consult the High Commissioner.

(7) Where the application is considered not to be manifestly unfounded such application shall be examined under normal procedures as provided under this Act.

(8) Without prejudice to the generality of the foregoing provisions of this article, if in the process of examining any application submitted in terms of article 8, the Commissioner arrives at the conclusion that the application should be dealt with under accelerated procedures on the basis of its being prima facie manifestly unfounded or because the applicant has found or could have found safe protection elsewhere in terms of the Convention and the Directives, the application shall be dealt with under accelerated procedures and the foregoing provisions of this article shall mutatis mutandis apply.

(9) If an applicant holds a travel document issued by a safe
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third country pursuant to the Convention and the Directives, he may be declared to have been safe from persecution in such State and his application shall be dealt with under accelerated procedures in accordance with the foregoing provisions of this article.

24. (1) The application of any person in Malta seeking recognition of refugee status and who falls under any one of the following conditions, shall be inadmissible if:

(a) another Member State has granted refugee status or is obliged to examine the particular application for asylum in terms of Council Regulation (EC) 343/03 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national;

(b) a country which is not a Member State is considered as a first country of asylum for the applicant;

(c) a country which is not a Member State is considered as a safe third country for the applicant;

(d) the applicant is allowed to stay in Malta on some other grounds and as a result of this he has been granted a status comparable to the rights and benefits of the refugee status;

(e) the applicant is allowed to stay in Malta on some other grounds which protect him against refoulement pending the outcome of a procedure for the determination of his status;

(f) the applicant has lodged an identical application after a final decision;

(g) a dependant of the applicant lodges an application after consenting to have his case be part of an application made on his behalf, and there are no facts relating to the dependant person’s situation which justify a separate application;

(h) has been recognized in a country which is not a Member state as a refugee and can still avail himself of that protection or otherwise enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement, and such person can be re-admitted to that country; or

(i) is a national or citizen of any safe country of origin listed in the Schedule or, if he is not a national or citizen thereof, he has a right of residence therein.

(2) The provisions of article 22(2), (3), (4) and (5) shall apply mutatis mutandis to inadmissible applications.

(3) The Minister may by regulations amend the list of countries specified in the Schedule, provided that only countries which in his opinion are countries of safe origin may be listed in the said Schedule, so however that the Minister shall remove from the said...
Schedule any country which in his opinion is no longer a safe country of origin.

PART VI

Miscellaneous

25. (1) The Minister may make regulations for the purpose of enabling this Act to have full effect and, in particular, but without prejudice to the generality of the foregoing, regulations under this article may make provisions—

(a) regulating applications for a declaration and the procedure for and in relation to such applications;

(b) regulating with the concurrence of the Refugee Appeals Board, appeals under this Act to the Refugee Appeals Board and the procedure for and in relation to such appeals and for providing that any person who contravenes or fails to comply with the provisions of any one or more of such regulations shall be guilty of an offence against the regulations and for establishing the penalty being not more than that to which such person shall on conviction be liable, a fine (multa) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or imprisonment not exceeding three months, or to both such fine and imprisonment;

(c) regulating the provision of legal aid to asylum seekers;

(d) extending, with the concurrence of the Minister responsible for social security, any of the provisions of the Social Security Act to persons falling under this Act;

(e) regulating the assignment and allocation of responsibilities and duties appertaining to the Minister under this Act to a public officer;

(f) regulating, with the concurrence of the Minister responsible for labour, the granting of work permits to recognised refugees and their family members, and persons enjoying subsidiary protection;

(g) for providing the means for facilitating the identification of applicants for refugee status and for communicating such information, when requested, to the competent authorities of the countries with which Malta has related bilateral agreement intended for such purposes or which are parties to international conventions related to refugees and to which Malta is also a party and which provide for such exchanges;

(h) for implementing the provisions of the European Union Council Directives relating to refugees and ancillary matters;

(i) for providing that any person who contravenes or fails to comply with the provisions of any one or more
regulations, shall be guilty of an offence against the regulations and for establishing the penalty for infringement of such regulations of a fine (multa) not exceeding two thousand and five hundred euro (€2,500) or imprisonment not exceeding three months, or of both such fine and imprisonment.

(2) Notwithstanding the provisions of any other law, the Minister may under this subarticle make regulations, making provisions adding to or derogating from the provisions of this Act, to enforce the provisions of any international convention or other treaty relating to refugees, their status and protection, to which Malta may become a party provided the ratification of such treaty has been approved by a Resolution of the House of Representatives.

26. (a) Where, before the commencement of this Act, a person has made an application for refugee status before the High Commissioner but a decision in relation thereto has not been made, the application shall be deemed to be an application under article 8 of this Act and shall be dealt with in accordance with this Act.

(b) Without prejudice to the provisions of any other law, a person in Malta who before the commencement of this Act had already been recognised as a refugee by the High Commissioner, shall upon his request continue to be regarded as such, and the provisions of this Act, where relevant, shall apply also to him.

(c) A person in Malta who before the commencement of this Act, although not recognised by the High Commissioner as a refugee, enjoys humanitarian protection granted to him by the said High Commissioner, or whose case is one classified by the High Commissioner as one of concern, shall upon his request continue to be regarded as such and shall enjoy humanitarian protection in Malta as defined under this Act.

SCHEDULE
(Article 24)

Australia Iceland
Benin India
Botswana Jamaica
Brazil Japan
Canada Liechtenstein
Cape Verde New Zealand
Chile Norway
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SUBSIDIARY LEGISLATION 420.01

REFUGEES APPEALS BOARD (PROCEDURES) REGULATIONS

29th October, 2001


1. The title of these regulations is the Refugees Appeals Board (Procedures) Regulations.

2. In these regulations, unless the context otherwise requires -
   "the Act" means the Refugees Act;
   "appeal" means an appeal made against a recommendation of the Commissioner in accordance with article 7 of the Act;
   "appellant" means a person appealing in terms of article 7 of the Act;
   "applicant" means an applicant for refugee status in terms of article 8 of the Act;
   "application" means an application for refugee status in terms of article 8 of the Act;
   "Board" means the Refugee Appeals Board appointed in terms of article 5 of the Act;
   "legal representative" means the person appointed to give free legal aid to represent appellant before the Board in terms of article 7(5) of the Act;
   "Minister" means the Minister responsible for immigration.

3. It shall be the function of the Refugee Appeals Board to hear and determine appeals against a recommendation of the Refugee Commissioner in accordance with articles 5 to 7 of the Act.

4. (1) Every person appointed to be, or to serve as, chairperson or member of the Board shall, before entering upon those duties, take and subscribe an oath in the form set out in the First Schedule or in such other form as may be appropriate to the case.

   (2) Such oath may be taken before any Commissioner for oaths and shall be deposited with the Attorney General.

   (3) The officers and employees appointed with the Board shall before entering into the exercise of their office or employment take an oath that they will faithfully and impartially perform the duties of their office or employment, and that they will not divulge any information acquired by them under the Act. Such oath shall be administered by the Chairperson of the Board.
Procedures of the Refugees Appeals Board.

5. (1) The Board shall conduct its proceedings in accordance with the following procedures:

(a) in accordance with article 7(2) of the Act, an appeal under these regulations may be made to the Board by the applicant and, or the Minister within two weeks from the notification on the applicant of the recommendation of the Commissioner to the Minister to accept or not the application;

(b) the Board shall transmit a copy of the appeal received from the applicant to the Minister and Commissioner. Where the appeal is entered by the Minister a copy of the appeal shall be served on the applicant and the Commissioner;

(c) the Commissioner shall furnish the Board with copies of any reports, documents or representations in writing submitted to him under article 8 of the Act and an indication in writing of the nature and source of any other information relating to the application which has come to his notice in the course of an investigation made by him;

(d) the Board may, for the purposes of its functions under the Act, request the Commissioner to make such further inquiries and to furnish the Board with such further information as it considers necessary within such period as it may specify;

(e) the Commissioner shall furnish the Board with observations in writing concerning any matter arising on the grounds of appeal whenever so requested by the Board and a copy of such observations shall be furnished to the applicant concerned and his legal representative;

(f) subject to the provisions of the proviso to paragraph (a) and of paragraph (l), the Board shall furnish the applicant concerned and his legal representative, if known, with copies of any written information and, or documentation that reasonably in the discretion of the Board may be necessary for the applicant to fully present his case;

(g) an applicant may withdraw an appeal to the Board by sending in a written and signed notice of withdrawal;

(h) the Board shall, where appropriate, following a notice to the parties concerned, hold an oral hearing. The Board shall normally hear only new evidence regarding which it is satisfied that such evidence was previously unknown or could not have been produced earlier when the case was first examined by the Commissioner. For the purposes of an oral hearing, if any, the Board may -

(i) direct in writing any person whose evidence is required by the Board to attend before it on a date and at a time and place specified in the
direction and there to give evidence and to produce any document or thing in his possession or control specified in the direction,

(ii) direct any such person to produce any specified document or thing in his possession or control, or

(iii) give any other directions for the purpose of an appeal that appear to the Board reasonable and justified:

Provided that subparagraphs (i) and (ii) shall not apply in the case of a document or thing relating to information as respects which the Minister or the Minister responsible for foreign affairs, as the case may be, directs that the information be withheld in the interest of national security or public policy;

(i) the Board shall enable the applicant and the Commissioner or an authorised officer to be present at the hearing and present their case to the Board in person or through a legal representative or other authorised person;

(j) the Board shall, as the particular case may require, use its utmost endeavours to procure the attendance of an interpreter to assist at the hearings;

(k) subject to the provisions of paragraph (l), a witness whose evidence has been or is to be given before the Board shall be entitled to the same privileges and immunities as a witness in a court;

(l) where information has been supplied to the Commissioner, by or on behalf of the government of another State in accordance with an undertaking, expressed or implied, that the information would be kept confidential, the information shall not, without the consent of the other State, be produced or further disclosed otherwise than in accordance with the undertaking;

(m) before deciding an appeal under this article, the Board shall consider the following:

(i) the relevant notice of appeal made by the applicant and, or the Minister under article 7 of the Act;

(ii) the recommendation of the Commissioner to the Minister or, as may be appropriate, the relevant decision by the Commissioner in writing and the reasons supporting it made in terms of article 8(5) of the Act;

(iii) any observations made to the Board by the Commissioner or the High Commissioner;

(iv) the evidence adduced and any representations made at an oral hearing, if any; and

(v) any documents, representations in writing or
other information furnished to the Commissioner pursuant to article 8 of the Act;

\(\text{(n)}\) any decision of the Board and the reasons therefor shall be communicated by the Board to the applicant concerned, his legal representative, if known, the Commissioner, the Minister and the High Commissioner;

\(\text{(o)}\) minutes of each meeting of the Board shall be kept by the Secretary and shall be confirmed by the Board and signed by the Chairperson.

(2) Subject to the provisions under subregulation (1)(\(\text{a}\)) to (\(\text{o}\)), the Board shall otherwise regulate its own procedure.

6. (1) The Board shall have power, exercisable through its and Chairperson, or by the person so authorised by the Chairperson, to -

\(\text{(a)}\) summon witnesses;

\(\text{(b)}\) take expert advice;

\(\text{(c)}\) require any person who appears to it to have a special knowledge of the matter under consideration to furnish orally or in writing such particulars in relation thereto as the Board may require; and

\(\text{(d)}\) administer an oath to any witness and to any person concerned in the investigation of the appeal before it, and require them to give evidence and to produce documents in their possession or under their custody in such circumstances as they could be required to give evidence or produce documents before a court of law.

(2) Oaths made under subregulation (1)(\(\text{d}\)) shall be administered by the Chairperson.

(3) Summons for attendance before the Board may be in the form set out in the Second Schedule or in such form as may be appropriate to the case, and shall be signed by the Chairperson or member of the Board.

(4) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person over the age of sixteen years at the place of residence or of business of the person summoned; and if served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(5) Except for cases covered by the proviso to regulation 5(1)(\(\text{h}\)) and by regulation 5(1)(\(\text{f}\)), any person summoned as aforesaid who refuses, or without sufficient cause fails to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Board, shall be guilty of
an offence under these regulations and shall be liable on conviction to a fine (multa) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) or to imprisonment not exceeding three months, or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of subregulation (1)(d), no person giving evidence before the Board may be compelled to incriminate himself, and every such person shall, in respect of any evidence given by him before the Board, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(6) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(7) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

(8) No proceedings shall be commenced in respect of any offence against the provisions of these regulations without the concurrence of the Attorney General.
Form of oath to be taken by Chairperson or Member of the Refugee Appeals Board

REFUGEES ACT

OATH OF OFFICE OF MEMBERS OF THE REFUGEE APPEALS BOARD
(In terms of regulation 4(1) of the Refugee Appeals Board (Procedures) Regulations)

I ................................................................... , legally valid identification document number ........................ having been appointed to be Chairperson/Member of the Refugee Appeals Board do swear/solemnly affirm that I will faithfully, fully and impartially, and to the best of my ability discharge the trust and perform the duties devolving upon me by virtue of the said appointment.

So help me God.

(signature)

---

Amended by:
L.N. 426 of 2012.

SECOND SCHEDULE
Regulation 6(3)

Summons to witnesses to appear before the Refugee Appeals Board

REFUGEES ACT

SUMMONING OF WITNESSES
(In terms of regulation 6(3) of the Refugee Appeals Board (Procedures) Regulations)

To .................................................................................................................. legally valid identification document number ..............................

You are hereby summoned to appear before the Refugee Appeals Board at ................................................ (place) on .............................................. (date and time) in order to give evidence with respect to

...........................................................................................................................
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............................................................................... (the matter of the inquiry).

Given under my hand this ........................ day of ................................ 20

..................................................................................................................

(Signature of Chairperson, or Member of Board)

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Amended by:
L.N. 426 of 2012.
1. The title of these regulations is the Asylum Procedures (Application for a Declaration) Regulations.

2. In these regulations, unless the context otherwise requires, the meanings set out in article 2 of the Refugees Act, hereinafter referred to as "the Act", shall also be applicable in these regulations.

3. (1) A person seeking asylum in Malta shall be interviewed by an immigration officer as soon as practicable after he has made an initial request, verbally or in writing, to apply for asylum in Malta.

(2) The immigration officer concerned shall inform the asylum seeker, where possible in a language that the person understands, or, where necessary, with the assistance of an interpreter, that he may apply for a declaration for refugee status in terms of article 8 of the Act.

(3) The immigration officer shall inform the applicant:

(a) that all information provided by him shall remain confidential;

(b) that he is entitled to the assistance of a lawyer throughout the asylum procedures;

(c) that he is entitled to contact the High Commissioner;

(d) that he is entitled to present his case fully and to make any submissions to the Commissioner;

(e) of his obligation to fully co-operate with the authorities, in particular with the Commissioner, and to furnish any information relevant to his application; and

(f) that a refusal on his part, without valid reasons, to furnish any information requested by the Commissioner or to co-operate fully with the authorities may lead to the suspension or termination of the asylum procedures with regards to both his application and, where applicable, to that of any dependent member of his family.

(4) (a) As soon as practicable, the immigration officer concerned will assist the applicant in filling the prescribed application form for a declaration, where necessary with the assistance of an interpreter. A copy of the form, as well as a copy of any written statement
made by the applicant, shall be furnished to the person concerned, the Commissioner and the High Commissioner.

(b) An application under these regulations shall be made in writing on the prescribed form set out in the Schedule.

(5) The Commissioner, or a person delegated by him, shall as soon as the application together with copies of any other relevant documents in possession of the applicant are received, make arrangements for a personal hearing with the applicant. A notification thereof shall be given to the High Commissioner.

(6) Where a person who is already within the territory of Malta manifests his wish to seek asylum in Malta, whether verbally or in writing, he shall be immediately referred to the Office of the Refugee Commissioner.

(7) The Commissioner or a person so delegated, will proceed as indicated under subregulations (2), (3) and (4) in lieu of the immigration officer, and make arrangements for a personal hearing with the applicant.

(8) Where it appears to the Commissioner that a child under the age of eighteen years is seeking asylum and is not in the custody of any person, he shall immediately inform the competent authorities in terms of the Children and Young Persons (Care Orders) Act and the provisions of the said Act shall apply in relation to that child. His claim shall, in any case, be examined with due consideration to his particular needs, after a guardian has been appointed.
**Schedule**

(Regulation 3(4)(b))

Application No. ......................

**Refugees Act**

Office of the Refugee Commissioner

Malta

Application for Recognition of Refugee Status in Malta in terms of article 8 of the Refugees Act

The information contained in this form shall be treated as confidential in terms of article 8(3) of the Refugees Act.

Recent Photo

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4. Full name in the original language and alphabet of the applicant

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7. Sex

8. Marital status

If currently married, please state date and place of marriage

9. Full name of father

10. Full name of mother

11. Ethnic group or tribe

12. Religion and denomination

13. Present nationality(ies)

14. Previous nationality(ies), if any

15. Mother language

16. Other languages
2. ACCOMPANYING FAMILY MEMBERS

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### 3. FAMILY MEMBERS IN HOME COUNTRY (parents, spouse, children, siblings)

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4. OTHER FAMILY MEMBERS OUTSIDE COUNTRY OF ORIGIN (including Malta)

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4. Sex
5. Date of birth
6. Place of birth
7. Relationship to PRA
8. Present whereabouts

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5. EDUCATION

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<th>Applicant</th>
<th>Institute</th>
<th>Place</th>
<th>Date (from/to)</th>
<th>Degree</th>
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### ASYLUM PROCEDURES

*(APPLICATION FOR A DECLARATION)*

#### 6. OCCUPATION

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<th>Applicant</th>
<th>Type of occupation</th>
<th>Date (from/to)</th>
<th>Name of the employer/company</th>
<th>Location of the employer</th>
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#### 7. DETAILS OF VOYAGE TO MALTA

1. When did you leave your home country?  
2. When did you enter Malta?

3. Did you enter Malta legally or illegally?  
4. Did you enter Malta by air or by sea?

5. Have you been in other countries before entering Malta? If yes, indicate:

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<th>Town/Country From to</th>
<th>Means of transport</th>
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6. Did you enter via a European State?  
   Yes ☐ No ☐

Which was the first European State entered?  
If you crossed border at an authorised crossing point, where and when was this?

If you avoided border controls, where was this? When?

7. Have you ever sought asylum in any of the countries above, or in another country?  
   Yes ☐ No ☐

8. If yes, indicate: result/country/date

9. If recognised as a refugee, please explain reasons for seeking asylum in Malta

10. If you did not seek asylum in any of those countries, please state why not

11. Have you ever applied for recognition of refugee status to UNHCR? If so, when, where, and what was the result?

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8. DOCUMENTS IN POSSESSION OF THE APPLICANT

1. Identity Papers
   1a. National Passport  
   Yes ☒ No ☐

   Number  
   Issued on  
   By  
   Valid until  

   1b. Document replacing Passport  
   Yes ☒ No ☐

   Number  
   Issued on  
   By  
   Valid until  

   1c. Other Identity Document  
   Yes ☒ No ☐

   Number  
   Issued on  
   By  
   Valid until  

2. Residence Documents/Visas
   2a. Do you possess a residence document/visa for the country of residence?  
   Yes ☒ No ☐

   Residence Permit  
   Entry Visa  
   Transit Visa  

   Issued On  
   By  
   Valid Until  

   2b. Do you possess a residence document/visa for another European State?  
   Yes ☒ No ☐

   Which State? ........................................

   Residence Permit  
   Entry Visa  
   Transit Visa  

   Issued On  
   By  
   Valid Until  

   2c. Do you possess a residence document/visa for a non-European country?  
   Yes ☒ No ☐

   Which country? ........................................
### ASYLUM PROCEDURES
#### (APPLICATION FOR A DECLARATION)

<table>
<thead>
<tr>
<th>Residence Permit</th>
<th>Entry Visa</th>
<th>Transit Visa</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Issued On</th>
<th>By</th>
<th>Valid Until</th>
</tr>
</thead>
</table>

3. **Other documents**
   In the absence of documents, specify whether you have ever had a valid visa or residence permit and, if so, indicate the issuing authority and date of issue as well as period of validity.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Type of document</th>
<th>Number</th>
<th>Issued by</th>
<th>On</th>
<th>expiring on</th>
</tr>
</thead>
</table>

Remarks

<table>
<thead>
<tr>
<th>Departed w/o documents</th>
<th>Lost</th>
<th>Stolen</th>
</tr>
</thead>
</table>

When? Where? Other reasons (which)?

4. **Declaration**
   You declare that the documents in your possession are:

   Genuine and regularly obtained
   Genuine and irregularly obtained
   Forged

9. **FURTHER INFORMATION (Re: Residencies)**

1. **Residence in another European State**
   Did you reside in a European State or States after leaving country in which journey was begun (country of origin/provenance)?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>In which State or States</th>
<th>From - To</th>
<th>Place/exact address</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Residence was authorised</th>
<th>Residence was unauthorised</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Period of validity of residence permit</th>
<th>Purpose of residence</th>
</tr>
</thead>
</table>

2. **Residence in other non-European countries**
**Did you reside in another non-European country or countries after leaving country in which journey was begun (country or origin/provenance)?**

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

In which third country or countries From - To Place/exact address

<table>
<thead>
<tr>
<th>Hotel/Boarding House</th>
<th>Private Accommodation</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Camp</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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</table>

Where? ........................................................................

<table>
<thead>
<tr>
<th>Residence was authorised</th>
<th>Residence was unauthorised</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Period of validity of residence permit</th>
<th>Purpose of residence</th>
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</thead>
<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>Were you in danger of being expelled/removed?</th>
<th>To which country?</th>
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<tbody>
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</table>

<table>
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<tr>
<th>Why?</th>
<th>Reasons for continuing journey</th>
</tr>
</thead>
<tbody>
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</table>

**10. PERSONAL HISTORY**

1. Have you or any members of your family (including those not with you) ever belonged to any political, religious, armed, ethnic or social organisation, movement or grouping in your home country?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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</thead>
</table>

2. If yes, state:

<table>
<thead>
<tr>
<th>Name of Family Member</th>
<th>Movement/Organisation</th>
<th>role played</th>
<th>from</th>
<th>to</th>
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</table>

3. Have you or any members of your family ever been arrested/sentenced/detained?

<table>
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<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

4. If yes, state:

<table>
<thead>
<tr>
<th>Name of Family Member</th>
<th>place of arrest</th>
<th>place of detention</th>
<th>from</th>
<th>to</th>
<th>reasons</th>
</tr>
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Remarks
5. Is military service compulsory in your country? [ ] Y [ ] N

6. If yes: have you been called up for it? [ ] Y [ ] N

7. If yes, state the period served: from _____ to _____

8. If you were called up, but did not serve or deserted, state reasons

Address in Malta ........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
Tel. No. ............................................................................

I hereby declare that all the above information is true, complete, and accurate to the best of my knowledge.

Place and date Signature of the principal applicant
........................................................................................................................................
........................................................................................................................................

Signature and title of reporting officer
........................................................................................................................................
........................................................................................................................................

11. DECLARATION OF REPORTING OFFICER

I certify that Mr/Ms __________________________ has been shown and explained the contents of this document in a language he/she understands. A signed copy of it has been handed over to him/her, I further certify that a copy of this original document has also been sent to the Refugee Commissioner and to the High Commissioner on __________________________

Signature of Reporting Officer Name of Reporting Officer in block letters

Date: __________________________
ASYLUM PROCEDURES
(APPLICATION FOR A DECLARATION)

PROCEDURAL CHANNEL RECOMMENDED FOR THE DETERMINATION OF REFUGEE STATUS OF ADMITTED APPLICANT(S):

My personal assessment is that applicant should be referred to either of the following channels of procedures -

1. Regular channel - Part III of the Refugees Act
2. Accelerated channel for manifestly unfounded claims - Part V of the Refugees Act, for the following reasons:

* Tick ✓ or delete as applicable

Name of Reporting Officer (in block letters)
Signature of Reporting Officer ..............................................................................

N.B. Where accelerated procedures are invoked, the relevant documentation must be transmitted simultaneously to the Refugee Commissioner, the Refugee Appeals Board, and the High Commissioner.

13. OTHER MEANS OF IDENTIFICATION OF APPLICANT (to be filled by Police Department)

<table>
<thead>
<tr>
<th>Responsible Department</th>
<th>THE FORENSIC SCIENCE LABORATORY POLICE HEADQUARTERS - MALTA</th>
<th>Ref No.</th>
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</thead>
</table>

Family name of Person
Fingerprinted (in block letters)
Forename(s) (in block letters)
Maiden Name
Address

Sex
Place of Birth
Nationality

Date of Birth
## ROLLED FINGERPRINT IMPRESSIONS

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## PLAIN FINGERPRINT IMPRESSIONS

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<tr>
<th>LEFT HAND</th>
<th>TWO THUMBS</th>
<th>RIGHT HAND</th>
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<tbody>
<tr>
<td>Four fingers taken simultaneously</td>
<td>LEFT</td>
<td>RIGHT</td>
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<tr>
<td>Date Fingerprint Taken</td>
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<tr>
<td>Place Fingerprint Taken</td>
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### 14. DECLARATION CONCERNING THE PROVISION FINGERPRINTS BY APPLICANT

**DATE OF BIRTH** ................. **PLACE OF BIRTH** ........................................

**ADDRESS IN MALTA** .................................................................


**SIGNATURE** Name in block letters

**WITNESS** Name in block letters

**SIGNATURE OF POLICE EXPERT** Name in block letters

**DATE**
1. The title of these regulations is the Asylum Procedures (Means of Facilitating Identification of Applicant) Regulations.

2. In these regulations, unless the context otherwise requires, the meanings set out in article 2 of the Refugees Act, hereinafter referred to as "the Act", shall also be applicable in these regulations.

3. (1) A person seeking asylum in Malta, and, or any dependent member of his family, shall be required by the Immigration Officer, or his representative, on making an application in terms of article 8 of the Act, to be photographed or to have the impressions of his fingerprints or palms of his hands taken for the purpose of facilitating identification. The said photographs or impressions of his fingerprints or palms of his hands, shall be inserted in the person's application form for the status of refugee, or in any other official personal record in connection with such application.

(2) The photographs or impressions of fingerprints or palms of hands provided by the asylum seeker, and, or any dependent member of his family, for the purposes of subregulation (1), shall not be divulged to any other person except with the consent of the person, or persons, to whom they refer or on the order of the Attorney General or of a court, or with the authorization of the Minister, or in fulfilling any international obligation assumed by the Government of Malta.

(3) An asylum seeker, or dependent member of his family, who refuses to provide a means of identification in terms of subregulation (1), may be denied further consideration of the application for refugee status, unless the Minister is of the view, after consulting the Refugee Commissioner, or any other competent person he may deem necessary, that cogent reasons exist to justify such refusal.

(4) When requiring an asylum seeker, and, or any other dependent member of his family, to provide a means of identification in terms of these regulations, the Immigration Officer, or his representative, shall inform him -

(a) that he, and, or any dependent member of his family, are being requested to provide a means of identification in connection with his application for refugee status in Malta and, or, that of a dependent
member of his family; and

(b) that a refusal to provide such means of identification on his part, or that of a dependent member of his family, may lead to the suspension or termination of the asylum procedures on the application as provided for in the Act.
**SUBSIDIARY LEGISLATION 420.04**

**REFUGEES APPEALS BOARD (CHAMBERS) RULES**

15th February, 2005

*LEGAL NOTICE 47 of 2005, as amended by Legal Notice 46 of 2014.*

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<tbody>
<tr>
<td><strong>1.</strong></td>
<td>The title of these rules is the Refugees Appeals Board (Chambers) Rules.</td>
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<tr>
<td><strong>2.</strong></td>
<td>The number of Chambers of the Refugees Appeals Board shall be established by the Minister responsible for Immigration and one of the Chambers shall be known as the “First Chamber”.</td>
</tr>
<tr>
<td><strong>3.</strong></td>
<td>The assignment of cases between the Chambers of the Refugees Appeals Board shall be made by the Secretary of the First Chamber by rotation in such manner that the Chambers shall, as far as possible, be assigned an equal number of cases.</td>
</tr>
</tbody>
</table>
TEMPORARY PROTECTION FOR DISPLACED PERSONS (MINIMUM STANDARDS)

REGULATIONS

6th May, 2005

LEGAL NOTICE 131 of 2005.

PART I
General provisions

1. (1) The title of these regulations is the Temporary Protection for Displaced Persons (Minimum Standards) Regulations.

(2) The purpose of these regulations is to implement the provisions of the European Union Directive 2001/55/EC which establishes minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin and to promote a balance of effort between Member States in receiving and bearing the consequences of receiving such persons.

2. For the purposes of these regulations:

"the Act", means the Refugees Act;

"the Commissioner" means the Refugee Commissioner and includes, to the extent and authority given, any other person temporarily authorised in that behalf by the Minister;

"displaced persons" means third-country nationals or stateless persons who have had to leave their country or region of origin, or have been evacuated, in particular in response to an appeal by international organisations, and who are unable to return in safe and durable conditions because of the situation prevailing in that country, who may fall within the scope of refugees under Article 1A of the Geneva Convention or other international or national instruments giving international protection, in particular:

(a) persons who have fled areas of armed conflict or endemic violence; or

(b) persons at serious risk of, or who have been the victims of, systematic or generalised violations of their human rights;


"mass influx" means the arrival of a large number of displaced persons, who come from a specific country or geographical area, whether their arrival was spontaneous or aided, for example through an evacuation programme;
"the Minister" means the Minister responsible for immigration, and any public officer to whom the Minister may delegate in writing any of the duties appertaining to him under this Act;

"Principal Immigration Officer" means the person appointed to such office by the Prime Minister under article 3 of the Immigration Act, and includes, within the limits of any authority granted by the Principal Immigration Officer under the said article 3, any public officer acting under such authority;

"residence permit" means any permit or authorisation issued under any law at the time in force in Malta and taking the form provided for in that legislation, allowing a third country national or a stateless person to reside in Malta;

"sponsor" means a third-country national enjoying temporary protection in Malta in accordance with a decision taken under regulation 6 and who wishes to be joined by members of his or her family;

"temporary protection" means a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection;

"unaccompanied minors" means third-country nationals or stateless persons below the age of eighteen, who arrive in Malta unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or minors who are left unaccompanied after they have entered into Malta;

"UNHCR" means the United Nations High Commissioner for Refugees.

3. Third country nationals who are eligible for temporary protection in the event of a mass influx, in accordance with these regulations, shall be granted temporary protection by the Commissioner for the duration and under the conditions stipulated under these regulations.

4. (1) Temporary protection shall not prejudge the recognition of refugee status under the Act and the Geneva Convention.

(2) Temporary protection shall be applied with due respect for human rights and fundamental freedoms and other obligations regarding non-refoulement.

(3) The establishment, implementation and termination of temporary protection shall be the subject of regular consultations with the Office of the United Nations High Commissioner for Refugees and other relevant international organisations.

(4) These regulations shall not apply to persons who have been accepted under temporary protection schemes prior to the entry into
PART II

Duration and implementation of temporary protection

5. (1) Without prejudice to the provisions of regulation 7, the duration of temporary protection shall be one year. Unless terminated under the terms of regulation 7(1)(b), such duration may be extended automatically by six monthly periods for a maximum period of one year.

(2) Where reasons for temporary protection persist, the Commissioner may decide to extend that temporary protection by a period of up to one year.

6. (1) The existence of a mass influx of displaced persons shall be declared by the Commissioner. Such declaration shall be based on a Council Decision establishing the existence of a mass influx adopted by the Council of the European Union, on a proposal from the European Commission, and adopted by qualified majority, in accordance with the provisions of Directive 2001/55/EC.

(2) The Commissioner’s declaration in accordance with subregulation (1) shall have the effect of introducing in Malta temporary protection for the displaced persons to which it refers, in accordance with the provisions of these regulations.

7. (1) Temporary protection shall come to an end:

(a) when the maximum duration has been reached; or

(b) at any time, by a decision to this effect by the Commissioner, following a Council Decision adopted by a qualified majority on a proposal from the Commission of the European Union.

(2) The Commissioner’s decision shall be based on the establishment of the fact that the situation in the country of origin is such as to permit the safe and durable return of those granted temporary protection with due respect for human rights and fundamental freedoms and other obligations regarding non-refoulement.

8. The Commissioner may extend temporary protection as provided for in these regulations to additional categories of displaced persons over and above those to whom the provisions of regulation 6 apply, where they are displaced for the same reasons and from the same country or region of origin.

PART III

Rights of persons enjoying temporary protection

9. (1) Persons enjoying temporary protection shall be provided with residence permits for the entire duration of the protection. Documents or other equivalent evidence shall be issued by the competent authorities for that purpose.

(2) Whatever the period of validity of the residence permits referred to in subregulation (1), the treatment granted to persons enjoying temporary protection may not be less favourable than that
set out in regulations 10 to 17.

(3) Persons admitted for the purposes of temporary protection shall be provided with every facility for obtaining the necessary visas, including transit visas; formalities shall be reduced to a minimum because of the urgency of the situation, and visas shall be free of charge or their cost reduced to a minimum.

10. Persons enjoying temporary protection shall be provided with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection and which are relevant to them are clearly set out.

11. In order to enable the effective application of these regulations, the Commissioner shall cause to be registered the personal data referred to in paragraph (a) of the Second Schedule, with respect to the persons enjoying temporary protection in Malta.

12. Subject to any bilateral agreement which may be entered into with any other Member State of the European Union, a person enjoying temporary protection in Malta shall be re-admitted to Malta if the said person remains on, or seeks to enter without authorisation onto, the territory of another Member State during the period covered by the Commissioner’s decision referred to in regulation 6.

13. (1) Subject to any special arrangements to which Malta may be a party, persons enjoying temporary protection shall, for a period not exceeding that of temporary protection, be permitted to engage in employed or self-employed activities, subject to rules applicable to the profession, as well as in activities such as educational opportunities for adults, vocational training and practical workplace experience:

Provided that for reasons of labour market policies, priority may be given to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

(2) In the cases contemplated in subregulation (1), the general provisions applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply.

14. (1) Persons enjoying temporary protection shall have access to suitable accommodation or, if necessary, they shall receive the means to obtain housing accommodation.

(2) (a) Persons enjoying temporary protection shall receive the necessary assistance in terms of social welfare and means of subsistence, if they do not have sufficient resources, as well as for medical care.

(b) Without prejudice to the provisions of subregulation (4), the assistance necessary for medical care shall include at least emergency care and essential treatment of illness.
(3) Where persons enjoying temporary protection are engaged in employed or self-employed activities, account shall be taken, when fixing the proposed level of aid, of their ability to meet their own needs.

(4) Medical or other necessary assistance shall be provided to persons enjoying temporary protection who have special needs, such as unaccompanied minors or persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence.

15. (1) Persons under eighteen years of age enjoying temporary protection shall be granted access to the state education system under the same conditions as Maltese nationals.

(2) Subject to such conditions as may be imposed by the Commissioner, adults enjoying temporary protection may be allowed access to the general education system.

16. (1) For the purposes of this regulation, in cases where families already existed in the country of origin and were separated due to circumstances surrounding the mass influx, the following persons shall be considered to be part of a family:

(a) the spouse of the sponsor or his or her unmarried partner in a stable relationship, in so far as Maltese legislation or practice in force treats unmarried couples in a way comparable to married couples under Maltese law relating to aliens; the minor unmarried children of the sponsor or of his or her spouse, without distinction as to whether they were born in or out of wedlock or adopted;

(b) other close relatives who lived together as part of the family unit at the time of the events leading to the mass influx, and who were wholly or mainly dependent on the sponsor at the time.

(2) (a) In cases where the separate family members enjoy temporary protection in other Member States of the European Union, family members shall be reunited in Malta where the Commissioner is satisfied that the family members fall under the description of subregulation (1)(a), taking into account the wish of the said family members.

(b) Family members may be reunited in Malta where the Commissioner is satisfied that the family members fall under the description of subregulation (1)(b), taking into account, on a case by case basis, the extreme hardship the family members would face if the reunification did not take place.

(3) (a) Where the sponsor enjoys temporary protection in Malta and one or some family members are not yet in a Member State, the Commissioner shall allow the reunification of the family members, who are in need of protection, with the sponsor in the case where the
Commissioner is satisfied that the family members fall under the description of subregulation (1)(a).

(b) Family members, who are not yet in a Member State and who are in need of protection, may be reunited with the sponsor in Malta in the case where the Commissioner is satisfied that the family members fall under the description of subregulation (1)(b), taking into account, on a case by case basis, the extreme hardship which the family members would face if the reunification did not take place.

(4) When applying this regulation the best interests of the children, if any, shall be taken into consideration.

(5) Without prejudice to the provisions of subregulations (1) to (4), and taking due account of the provisions of regulations 25 and 26, the Member State in which the reunification shall take place shall be agreed upon between Malta and the other Member States concerned.

(6) (a) Reunited family members shall be granted residence permits under temporary protection, and documents or other equivalent evidence shall be issued for that purpose.

(b) Transfers of family members onto the territory of another Member State, other than Malta, for the purposes of the re-unification under subregulation (2), shall result in the withdrawal of the residence permits issued, and the termination of the obligations towards the persons concerned relating to temporary protection, in Malta.

(7) At the request of another Member State, the Government of Malta shall provide information, as set out in the Second Schedule to these regulations, on a person receiving temporary protection which is needed to process a matter under this regulation.

17. (1) The Commissioner shall, on the recommendation of the Principle Immigration Officer, as soon as possible take measures to ensure the necessary representation of unaccompanied minors enjoying temporary protection by legal guardianship, or, where necessary, representation by an organisation which is responsible for the care and well-being of minors, or by any other appropriate representation.

(2) During the period of temporary protection unaccompanied minors shall be placed:

(a) with adult relatives;

(b) with a foster family;

(c) in reception centres with special provisions for minors, or in other accommodation suitable for minors;

(d) with the person who looked after the child when fleeing.

(3) The Commissioner shall ensure that all the necessary steps
are taken to enable the placement, in consultation with the adult person or persons concerned, and taking account of the views of the child in accordance with the age and maturity of the child.

PART IV
Access to the asylum procedure in the context of temporary protection

18. (1) Persons enjoying temporary protection shall be able to lodge an application for asylum at any time.

(2) The examination of any asylum application not processed before the end of the period of temporary protection shall be completed after the end of that period.

19. The criteria and mechanisms to be applied for deciding whether Malta or any other Member State shall be responsible for considering an asylum application shall be in accordance with European Union legislation as in force from time to time. In particular, the Member State responsible for examining an asylum application, submitted by a person enjoying temporary protection, shall be the Member State which has accepted that person’s transfer onto its territory.

20. (1) The Commissioner may provide that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration.

(2) Where, after an asylum application has been examined, refugee status or, where applicable, any other kind of protection is not granted to a person eligible for or enjoying temporary protection, then, without prejudice to the provisions of regulation 28, that person shall enjoy or shall continue to enjoy temporary protection for the remainder of the period of protection.

PART V
Return and measures after temporary protection has ended

21. Without prejudice to the provisions of regulations 22, 23 and 24, legislation in force at the time on the protection of third country nationals and on third country nationals in general shall apply, when the temporary protection ends.

22. (1) Persons enjoying temporary protection or whose temporary protection has ended shall have the right to voluntarily return to their country of origin, in a manner that fully respects human dignity. The Commissioner shall ensure that the decision of those persons to return is taken in full knowledge of the facts.

(2) For such time as the temporary protection has not ended, and on the basis of the circumstances prevailing in the country of origin, favourable consideration shall be given to requests for return to a host Member State, whether Malta or another Member State, from persons who have enjoyed temporary protection and exercised their right to a voluntary return.

(3) At the end of the temporary protection, the rights laid down in regulations 9 to 17 may be extended individually to persons who have been covered by temporary protection and are benefiting from
Forced return.

23. (1) The forced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.

(2) In cases of forced return, the Commissioner shall consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

Residence conditions.

24. (1) The Principal Immigration Officer shall take the necessary measures concerning the conditions of residence of persons who have enjoyed temporary protection and who cannot, in view of their state of health, reasonably be expected to travel and where they would suffer serious negative effects if their treatment was interrupted; these persons shall not be expelled so long as that situation continues.

(2) The Principal Immigration Officer may allow families, whose children are minors and attend school to benefit from residence conditions allowing the children concerned to complete the current school period.

PART VI

Solidarity

25. (1) The Government of Malta shall, acting in co-operation with the competent international organisations, ensure that the eligible persons referred to in regulation 6, who have not yet arrived in Malta, have expressed their will to be received onto Malta’s territory.

(2) When the number of persons who are eligible for temporary protection following a sudden and massive influx exceeds Malta’s reception capacity, which would have been indicated in figures or in general terms to the Council and the Commission of the European Union, the Government of Malta shall have the right to demand that the Council of the European Union examine, as a matter of urgency, the situation and take appropriate action, including the recommendation of additional support.

Transferral of residence of persons enjoying temporary protection.

26. (1) For the duration of the temporary protection, the Government of Malta shall co-operate with other Member States with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the consent of the persons concerned to such transferral.

(2) The Government of Malta shall communicate requests for transfers to the other Member States and shall notify the Commission of the European Union and UNHCR; the Government of Malta shall also inform any requesting Member State of its capacity for receiving transferees.

(3) Where a transfer is made from Malta to another Member State, the Maltese residence permit shall expire and the obligations towards the persons concerned relating to temporary protection in
Malta shall come to an end.

(4) The model pass set out in the First Schedule to these regulations shall be used for transfers, between Member States, of persons enjoying temporary protection.

PART VII
Special provisions

27. (1) The Commissioner may exclude a person from temporary protection if:

(a) there are serious reasons for considering that -

(i) that person has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(ii) that person has committed a serious non-political crime outside Malta prior to his or her admission into Malta as a person enjoying temporary protection. The severity of the expected persecution is to be weighed against the nature of the criminal offence of which the person concerned is suspected. Particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes. This applies both to the participants in the crime and to its instigators;

(iii) that person has been guilty of acts contrary to the purposes and principles of the United Nations;

(b) there are reasonable grounds for regarding that person as a danger to the security of Malta as a host country or, having been convicted by a final judgment of a particularly serious crime, that person is a danger to the community of Malta as a host country.

(2) The grounds for exclusion referred to in subregulation (1) shall be based solely on the personal conduct of the person concerned. Exclusion decisions or measures shall be based on the principle of proportionality.

PART VIII
Final provisions

28. Persons who have been excluded from the benefit of temporary protection or family reunification shall be entitled to appeal to the Refugee Appeals Board established under article 5 of the Act.
TEMPORARY PROTECTION FOR
DISPLACED PERSONS (MINIMUM STANDARDS)

FIRST SCHEDULE

Regulation 26(4)

Model pass for the transfer of persons enjoying temporary protection

PASS

Name of the Member State delivering the pass:

Reference number (*):

Issued under Article 26 of Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of effort between Member States in receiving such persons and bearing the consequences thereof.

Valid only for the transfer from .................................... (1) to ....................................... (2).

The person in question must present himself/herself at .................... (3) by .................... (4).

Issued at: ....................................................................................................................

SURNAME: ......................................................................................................................

FORENAMES: ...................................................................................................................

PLACE AND DATE OF BIRTH: ......................................................................................

In case of a minor, name(s) of responsible adult: .....................................................

SEX: ..........................................................................................................................

NATIONALITY: ..............................................................................................................

Date issued: ..................................................................................................................

SEAL

Signature of the beneficiary: .................. For the competent authorities: ..................

-------------------------------------------------------------------------------------------------

The pass-holder has been identified by the authorities ................................................ (5)(6)

The identity of the pass-holder has not been established ............................................

This document is issued pursuant to Article 26 of Directive 2001/55/EC only and in no way constitutes a document which can be equated to a travel document authorising the crossing of the external border or a document proving the individual's identity.

(*) The reference number is allocated by the country from which the transfer to another Member State is made.

(1) Member State from which the transfer is being made.

(2) Member State to which the transfer is being made.

(3) Place where the person must present himself/herself on arrival in the second Member State.

(4) Deadline by which the person must present himself/herself on arrival in the second Member State.

(5) On the basis of the following travel or identity documents, presented to the authorities.

(6) On the basis of documents other than a travel or identity document.
TEMPORARY PROTECTION FOR
DISPLACED PERSONS (MINIMUM STANDARDS) [S.L.420.05 11

SECOND SCHEDULE

Regulations 11 and 16

The information referred to in Articles 10, 15 and 26 of the Directive includes to
the extent necessary one or more of the following documents or data:

(a) personal data on the person concerned (name, nationality, date and place
of birth, marital status, family relationship);

(b) identity documents and travel documents of the person concerned;

(c) documents concerning evidence of family ties (marriage certificate, birth
certificate, certificate of adoption);

(d) other information essential to establish the person’s identity or family
relationship;

(e) residence permits, visas or residence permit refusal decisions issued to
the person concerned by the Member State, and documents forming the
basis of decisions;

(f) residence permit and visa applications lodged by the person concerned
and pending in the Member State, and the stage reached in the
processing thereof.

The providing Member State shall notify any corrected information to the
requesting Member State.
SUBSIDIARY LEGISLATION 420.06

RECEPTION OF ASYLUM SEEKERS (MINIMUM STANDARDS) REGULATIONS

22nd November, 2005

LEGAL NOTICE 320 of 2005.

PART I
Purpose, Definitions and Scope

1. (1) The title of these regulations is the Reception of Asylum Seekers (Minimum Standards) Regulations.

(2) The purpose of these regulations is to implement the provisions of the European Union Directive 2003/9/EC which establishes minimum standards for the reception of asylum seekers in Member States.

2. For the purposes of these regulations -

*"accommodation centre"* means any place used for collective housing of asylum seekers;

*"the Act"* means the Refugees Act;

*"applicant"* means a person who has made an application for a declaration under article 8 of the Act;

*"application"* means an application for refugee status made under article 8 of the Act;

*"asylum seeker"* means a person who has made an application for a declaration under article 8 of the Act;

*"the Commissioner"* means the Refugee Commissioner, and includes to the extent and authority given, any other person temporarily authorised in that behalf by the Minister;

*"detention"* means confinement of an asylum seeker within a particular place, where the applicant is deprived of his or her freedom of movement;

*"family members"* means, only in so far as the family already existed in the country of origin, the following members of the applicant’s family who are present in Malta, in relation to the application for asylum made in Malta:

(a) the spouse of the asylum seeker;

(b) the minor children of the applicant and his spouse referred to in paragraph (a) or of the applicant, on condition that the children are unmarried and dependent and regardless of whether they were born in or out of wedlock or adopted in a manner recognized under Maltese law;

*"the Geneva Convention"* means the Convention of the 28th July,
1951 relating to the status of refugees, as amended by the New York Protocol of the 31st January, 1967;

"material reception conditions" means the reception conditions that include housing, food and clothing, provided in kind, or as financial allowances or in vouchers, and a daily expenses allowance;

"Member State" means a country which is a member of the European Union;

"Principal Immigration Officer" means the person appointed to such office by the Prime Minister under article 3 of the Immigration Act and includes, within the limits of any authority granted by the Principal Immigration Officer under article 3(3) of the said Act, any public officer acting under such authority;

"reception conditions" means the full set of measures that are granted in Malta to asylum seekers in accordance with Maltese law;

"refugee" means a person who fulfils the requirements of Article 1(A) of the Geneva Convention;

"unaccompanied minors" means persons below the age of eighteen who arrive in Malta unaccompanied by an adult responsible for them whether by law or by custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered Malta.

Scope.

3. (1) These regulations shall apply to all third country nationals and stateless persons who make an application for asylum in Malta as long as they are allowed to remain in Malta as asylum seekers, as well as to family members, if they are covered by such application for asylum according to the Maltese law.

(2) These regulations do not apply in cases of requests for diplomatic or territorial asylum submitted to representations of Malta abroad.

(3) These regulations do not apply when the Temporary Protection for Displaced Persons (Minimum Standards) Regulations are applied.

PART II

General Provisions on Reception Conditions

4. (1) The Principal Immigration Officer shall take the necessary steps in order that, within a reasonable time and not exceeding fifteen days from the day an asylum seeker has lodged his application, the asylum seeker shall be informed of any established benefits and of the obligations with which he must comply relating to reception conditions; in this respect the Principal Immigration Officer shall ensure that an applicant is provided with information on organisations or groups of persons that provide specific legal assistance and organisations that might be able to help or inform him concerning the available reception conditions, including health care.

(2) The Principal Immigration Officer shall ensure that the
5. (1) The Commissioner shall ensure that, within three days after an application is lodged, an applicant is provided with a document issued in his own name certifying his status as an asylum seeker or testifying that he is allowed to stay in Malta while his application is pending or being examined.

(2) Subregulation (1) shall not apply when the asylum seeker is in detention and during the examination of an application for asylum made at the point of entry into Malta or within the context of a procedure to decide on the right of the applicant legally to enter the territory of Malta. In specific cases, during the examination of an application for asylum, applicants may be provided with other evidence equivalent to the document referred to in subregulation (1).

(3) The document referred to in subregulation (1) shall be valid for as long as the asylum seeker is authorised to remain in Malta.

(4) Asylum seekers may be provided with a travel document when serious humanitarian reasons arise that require their presence in another State.

6. (1) The Principal Immigration Officer may decide on the residence of the asylum seeker for reasons of public interest, public order or, when necessary, for the swift processing and effective monitoring of his or her application.

(2) The Principal Immigration Officer may, for legal reasons or reasons of public order, order that an applicant be confined to a particular place in accordance with Maltese law.

(3) The provision of the material reception conditions shall be subject to actual residence by the particular applicant in a specific place, to be determined by the Principal Immigration Officer.

(4) The Principal Immigration Officer shall have the possibility to grant applicants temporary permission to leave the place of residence mentioned in subregulations (1) and (3) or the assigned area mentioned in subregulation (2). The Principal Immigration Officer shall take the decisions individually, objectively and impartially and shall give reasons if the decisions are negative:

Provided that the applicant shall be given the facility to keep appointments with authorities and courts if his appearance thereat is necessary.

(5) Where applicable, applicants are required to inform the competent authorities of their current address and notify any change of address to such authorities as soon as possible.

7. Where applicants are provided with accommodation, appropriate measures shall, as far as possible, and with the asylum seeker’s agreement, be taken to maintain family unity.

8. The Director General Health may require medical screening.
screening for applicants on public health grounds.

9. (1) Minor children of asylum seekers and asylum seekers who are minors shall have access to the education system under similar conditions as Maltese nationals for so long as an expulsion measure against them or their parents is not actually enforced; such education may be provided as may be determined by the Director of Education.

(2) Access to the education system shall not be postponed for more than three months from the date the application for asylum was lodged by the minor or the minor’s parents:

Provided that this period may be extended to one year where specific education is provided in order to facilitate access to the education system.

10. (1) In accordance with labour market conditions prevailing at the time, the Ministry responsible for issuing employment licences shall determine a period of time, starting from the date on which an application for asylum was lodged, during which an applicant shall not have access to the labour market.

(2) If a decision at first instance has not been taken within one year of the presentation of an application for asylum and this delay cannot be attributed to the applicant or his legal representative, the Ministry responsible for issuing employment licences shall decide the conditions for granting access to the labour market for the applicant.

(3) Where an appeal is lodged against a negative decision, access to the labour market shall not be withdrawn during the appeal stage.

(4) The provisions of subregulations (1), (2) and (3) are without prejudice to priorities given, for reasons of labour market policies, to citizens of Member States and nationals of States parties to the Agreement on the European Economic Area and also to legally resident third country nationals.

11. (1) The authorities responsible for the management of reception centres shall ensure that material reception conditions are available to applicants when they make their application for asylum.

(2) The material reception conditions shall be such as to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence; the authorities referred to in subregulation (1) shall moreover ensure that that standard of living is met in the specific situation of persons who have special needs, in accordance with regulation 14, as well as in relation to the situation of persons who are in detention.

(3) The provision of material reception conditions and health care shall be subject to the condition that applicants do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence.

(4) Where applicants have sufficient resources, or if they have
been working for a reasonable period of time, applicants may be required to cover or contribute to the cost of the material reception conditions and of the health care provided for in these regulations; if it transpires that an applicant had sufficient means to cover material reception conditions and health care at the time when these basic needs were being covered, the asylum seeker may be asked for a refund.

12. (1) Where accommodation is provided in kind, it should take one or a combination of the following forms:

(a) premises used for the purpose of accommodating applicants during the examination of an application for asylum lodged at the moment of entry into Malta;

(b) accommodation centres which guarantee an adequate standard of living;

(c) other premises adapted for accommodating applicants.

(2) The authorities responsible for such accommodation shall ensure that applicants provided with the accommodation referred to in subregulation (1)(a), (b) and (c) are assured:

(a) protection of their family life;

(b) the possibility of communicating with relatives, legal advisers and representatives of the United Nations High Commissioner for Refugees and recognised non-governmental organisations.

Particular attention shall be paid to the prevention of assault within the premises and accommodation centres referred to in sub-regulation (1)(a) and (b).

(3) If appropriate, minor children of applicants or applicants who are minors shall be lodged with their parents or with the adult family member responsible for them whether by law or by custom.

(4) Transfers of applicants from one accommodation facility to another shall take place only when necessary, and applicants shall be provided with the possibility of informing their legal advisers of the transfer and of their new address.

(5) Legal advisers or counsellors of asylum seekers and representatives of the United Nations High Commissioner for Refugees or non-governmental organisations designated by the latter and recognised by the authorities responsible for the management of reception centres shall be granted access to accommodation centres and other accommodation facilities in order to assist the said asylum seekers; in granting such access the authorities responsible for the management of reception centres may impose such limits as they may deem appropriate on grounds relating to the security of the centres and facilities and of the asylum seekers.

(6) In exceptional circumstances modalities may be set for material reception conditions which are different from those provided for in this regulation, for a reasonable period which shall be as short as possible, when:
(a) an initial assessment of the specific needs of the applicant is required,
(b) material reception conditions, as provided for in this regulation, are not available,
(c) accommodation capacities normally available are temporarily exhausted,
(d) the asylum seeker is in detention or confined to a border post:

Provided that these different conditions shall, in any case, cover basic needs.

PART III
Reduction or Withdrawal of Reception Conditions

13. (1) The authorities responsible for the management of reception centres may reduce or withdraw reception conditions in the following cases:

   (a) where an asylum seeker:
       (i) abandons the place of residence determined by the competent authority without informing him or, if requested, without permission, or
       (ii) does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum procedure during a reasonable period laid down by law:

       Provided that when the applicant is traced or voluntarily reports to the competent authority, the authorities responsible for the management of reception centres shall reach a decision, based on the reasons for the disappearance, as to the reinstallation or otherwise of the grant of some or all of the reception conditions;

   (b) where an applicant has concealed financial resources and has therefore unduly benefited from material reception conditions.

(2) The authorities responsible for the management of reception centres may refuse reception conditions in cases where an asylum seeker has failed to demonstrate that the asylum claim was made in accordance with the provisions of the Act after his arrival in Malta.

(3) The authorities responsible for the management of reception centres may, in accordance with rules for accommodation centres drawn up for the purpose, determine sanctions applicable to serious breaching of the rules of such accommodation centres as well as to seriously violent behaviour.

(4) Decisions for reduction, withdrawal or refusal of reception conditions or sanctions referred to in subregulations (1), (2) and (3) shall be taken individually, objectively and impartially and reasons shall be given; the decisions shall be based on the particular
situation of the person concerned, especially with regard to persons covered by regulation 15, taking into account the principle of proportionality.

PART IV
Provisions for Persons with Special Needs

14. (1) In the implementation of the provisions relating to material reception conditions and health care, account shall be taken of the specific situation of vulnerable persons which shall include minors, unaccompanied minors and pregnant women, found to have special needs after an individual evaluation of their situation.

(2) In the implementation of the provisions of these regulations, where these refer to minors, the best interests of the child shall constitute a primary consideration.

15. An unaccompanied minor aged sixteen years or over may be placed in accommodation centres for adult asylum seekers.

PART V
Appeals

16. Without prejudice to the principles of public policy and public interest, asylum seekers who feel aggrieved by a decision taken in pursuance of the provisions of these regulations shall be entitled to appeal to the Immigration Appeals Board in accordance with the procedures laid down in the Immigration Act.
1. The title of these regulations is the Procedural Standards in Examing Applications for International Protection Regulations.


3. In these regulations, unless the context otherwise requires:
   "Act" means the Refugees Act;
   "applicant" means applicant for international protection;
   "competent authorities" means the Refugee Commissioner or his representatives;
   "international protection" means refugee status or subsidiary protection;
   "vulnerable persons" include pregnant women, persons with disabilities, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence, or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman or degrading treatment or who have suffered from armed conflict.

4. (1) A person who wishes to apply for international protection shall make an application to the Commissioner on the prescribed form which, as far as possible, shall be in a language that the applicant understands.
   (2) The applicant shall be:
      (a) informed:
         (i) in a language which he may reasonably be supposed to understand of the procedure to be
followed and of his rights and obligations during the procedure;

(ii) about the possible consequences of not complying with his obligations and not cooperating with the authorities;

(iii) of the timeframe as well as the means at his disposal for fulfilling the obligation to submit the elements required;

(iv) of his right to consult the High Commissioner and to have legal assistance during all the phases of the asylum procedure:

Provided that this information shall be given in time to enable the applicant to exercise the rights guaranteed and to comply with the obligations prescribed by law;

(b) advised on how and where he may make such application as well as assistance, where necessary, in the forwarding of the application to the Commissioner;

(c) granted the services of an interpreter for submitting his case to the competent authorities whenever necessary;

(d) given notice, in a reasonable time, of the decision on his application for international protection and such notice shall be served on the applicant or his legal advisor;

(e) informed of the result of the decision, in a language that he may reasonably be supposed to understand, when he is not assisted or represented by a legal adviser and when free legal assistance is not available.

(3) An applicant for international protection shall file his application in his own name, and where applicable, that of his dependants.

(4) An application shall not be valid unless made within sixty days of the arrival of the applicant in Malta:

Provided that an application may be allowed by the Commissioner, for special and exceptional reasons, after the lapse of sixty days.

4A. (1) The Refugee Commissioner shall ensure that applications for international protection are neither rejected nor excluded from examination on the sole ground that they have not been made as soon as possible.

(2) When examining applications for international protection, the Commissioner shall first determine whether the applicants qualify as refugees and, if such applicants do not qualify, determine whether the applicants are eligible for subsidiary protection.

(3) The Commissioner shall ensure that decisions on applications for subsidiary protection are taken after an appropriate examination and that:

(a) applications are examined and decisions are taken on an individual basis;
(b) precise and up-to-date information is obtained from
EASO and UNHCR as well as other relevant
international human rights organisations:

Provided that the information referred to in this
paragraph shall be accessible to the Refugees Appeals
Board for the purpose of taking a decision on an
application for international protection;

(c) the personnel examining applications and taking
decisions have acquired the appropriate knowledge in
the field of asylum and refugee law;

(d) the Commissioner has the possibility to seek advice,
whenever necessary, from experts on medical, cultural,
religious, child-related or gender issues.

(4) The Commissioner shall provide for rules concerning the
translation of documents relevant for the examination of
applications.

(5) The Commissioner shall ensure that the applicants are
provided with information relating to legislation and procedure,
free of charge:

Provided that when examining an application for
international protection, due consideration shall be had as to
whether:

(a) the application is likely to be unfounded; or

(b) the applicant is vulnerable, is an unaccompanied minor
or is in need of special procedural guarantees.

4B. (1) The Commissioner may, from time to time, lay down
the rules and guidelines applicable to the procedure for the
determination of an application.

(2) The Commissioner shall examine the application as soon as
possible and shall, in the assessment of the credibility of an
applicant’s claim, endeavour to gather all relevant information that
will enable him to make a recommendation taking due account of
the applicant’s cooperation in the proceedings.

(3) (a) The applicant shall submit as soon as possible all
elements needed to substantiate the application for
international protection. Such elements shall consist of
the applicant’s statements and all the documentation at
the applicant’s disposal regarding the applicant’s age,
background, including that of relevant relatives,
identity, nationality, country and place of previous
residence, previous applications for international
protection, travel routes, travel documents and the
reasons for applying for international protection.

(b) For the purpose of this regulation, when conducting a
personal interview on the substance of the application,
the Commissioner shall ensure that the applicant is
given an adequate opportunity to present the elements
needed to substantiate the application, including the
opportunity to give an explanation regarding elements
which may be missing and/or inconsistencies or contradictions in the application.

(4) The Commissioner shall assess the relevance of the elements referred to in sub-regulation (3). When aspects of the applicant’s statements are not supported by documentary or other evidence, such aspects shall not need confirmation if:

(a) the applicant has made a genuine effort to substantiate his application;

(b) all relevant elements at the applicant’s disposal have been submitted and a satisfactory explanation has been given regarding any lack of other relevant elements;

(c) the applicant’s statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the applicant’s case;

(d) the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so; and

(e) the general credibility of the applicant has been established.

(5) The assessment of the application for international protection shall be carried out on an individual basis taking into account:

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied;

(b) the relevant statements and documentaries presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;

(c) the individual position and personal circumstances of the applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicant’s personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;

(d) whether the applicant’s activities since leaving the country of origin were engaged in for the sole or main purpose of creating the necessary conditions for applying for international protection, so as to assess whether those activities would expose the applicant to persecution or serious harm if returned to that country;

(e) whether the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship.

(6) For the purpose of this regulation, where the Commissioner deems it relevant for the assessment of an application, the Commissioner shall, subject to the applicant’s consent, arrange for
a medical examination of the applicant concerning signs that might indicate past persecution or serious harm:

Provided that the applicant’s refusal to undergo such a medical examination shall not prevent the Commissioner from taking a decision on the application.

5. (1) The applicant shall be interviewed, where necessary, with the assistance of an interpreter and all evidence shall be retained by the Commissioner or his representative for as long as is necessary.

(2) A legal adviser shall be allowed to assist the applicant in accordance with procedures laid down by the Commissioner and, where entitled to, free legal aid shall be provided to the applicant.

(3) The personal interview referred to in subregulation (1) may be omitted where:

(a) the Commissioner is able to make a positive recommendation on the basis of evidence available; or

(b) the Commissioner has already had a meeting with the applicant for the purpose of assisting him with completing his application and submitting the essential information regarding the application; or

(c) the Commissioner, on the basis of an examination of the information provided, considers the application to be unfounded where:

(i) the applicant, in submitting his application and presenting the facts, has only raised issues that are not relevant or of minimal relevance to the examination of whether he qualifies as a refugee; or

(ii) the application for international protection is considered to be unfounded due to the notion of safe country of origin or safe third country; or

(iii) where applicant has made inconsistent, contradictory, improbable or insufficient representations which made his claim clearly unconvincing in relation to his having been the object of persecution; or

(iv) the person has submitted a subsequent application which does not raise any relevant new elements with respect to his particular circumstances or to the situation in his country of origin; or

(v) where the applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his removal; or

(d) where it is not reasonably practicable, in particular, where the Commissioner is of the opinion that the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his control; provided

Amended by:
L.N. 161 of 2014.
that when in doubt, the Commissioner may require a medical or psychological certificate.

(4) Without prejudice to the provisions of regulation 14, the Commissioner, when deciding on the application for international protection, may take into account the fact that the applicant failed to appear for the personal interview unless he had a valid reason for such failure.

(5) A personal interview shall take place without the presence of family members unless the Commissioner considers it necessary for an appropriate examination to have other family members present:

Provided that a personal interview shall take place under conditions which ensure appropriate confidentiality.

(6) A personal interview shall be conducted under conditions which allow the applicant to present the grounds for his application in a comprehensive manner and must:

(a) ensure that the person who conducts the interview is sufficiently competent to take account of the personal or general circumstances surrounding the application including the applicant’s cultural origin or vulnerability, in so far as it is possible to do so; and

(b) ensure the presence of an interpreter who is able to give appropriate communication between the applicant and the person who conducts the interview, but communication need not necessarily take place in the language preferred by the applicant if there is another language which he may reasonably be supposed to understand and communicate in.

6.  (1) The Commissioner shall ensure that a written report is made of every personal interview containing at least the essential information regarding the application as presented by the applicant.

(2) An applicant shall have, upon request, timely access to the report of the personal interview allowing an appeal to be prepared and lodged in due time.

7. (1) An applicant shall be allowed to consult, at his own expense, in an effective manner, a legal adviser in relation to his application for international protection:

Provided that in the event of a negative decision, free legal aid shall be granted under the same conditions applicable to Maltese nationals.

(2) A legal adviser who assists an applicant following a decision shall enjoy access to such information in the applicant’s file as is liable to be examined by the Refugee Appeals Board in so far as the information is relevant to the examination of the application:

Provided that where disclosure of such information would jeopardize national security, the security of the organisations or
persons providing information or the security of the persons to whom the information relates, or where the investigative interests relating to the examination of applications for international protection by the Commissioner or the international relations of Malta would be compromised, such access shall be precluded.

(3) The legal adviser who assists an applicant for international protection shall have access to closed areas such as detention facilities and transit zones for the purpose of consulting the applicant, subject to such limitations necessary for the security, public order or administrative management of the area.

(4) The Commissioner may provide that the applicant is allowed to bring with him to the personal interview a legal adviser:

Provided that the absence of a legal adviser shall not prevent the Commissioner from conducting or continuing the personal interview with the applicant.

8. The Commissioner shall ensure that, where a recommendation cannot be made within six months, the applicant concerned shall either:

   (a) be informed of the delay; or
   (b) receive, upon his request, information on the time frame within which the decision on his application is to be expected:

Provided that such information shall not constitute an obligation for the Commissioner towards the applicant concerned to take a decision within that timeframe.

9. (1) The decision on the eligibility for refugee status or subsidiary protection status shall be made in writing.

   (2) The decision referred to in subregulation (1) shall indicate in writing reasons in fact and in law for a rejection of the application and shall include information for the applicant on his right to challenge the decision in terms of regulation 7.

10. (1) All information concerning applications for refugee status shall remain confidential saving that the report of the personal interview, following the recommendation by the Commissioner, shall be accessible to the applicant for international protection and to the Minister.

   (2) Any information concerning an application shall, under no circumstances, be disclosed to the authorities of the country of origin of the applicant nor shall any information be requested from such authorities regarding the applicant.

11. A person recognised as being in need of international protection shall, as soon as possible after the respective refugee status or subsidiary protection status has been granted to him, have access to information on the rights and obligations relating to that status in a language likely to be understood by them.
12. (1) Notwithstanding the provisions of any other law to the contrary, and except where a subsequent application will not be further examined, or where an applicant is to be surrendered or extradited as appropriate to another Member State pursuant to obligations in accordance with a European Arrest Warrant or otherwise, or to a third country or to international criminal courts or tribunals, an applicant shall not be removed from Malta before his application is finally determined and such applicant shall be allowed to enter or remain in Malta pending a final decision of his application.

(2) An applicant for international protection shall -

(a) not seek to enter employment or carry on business unless with the consent of the Minister;
(b) unless he is in custody, reside and remain in the places which may be indicated by the Minister;
(c) report at specified intervals to the immigration authorities as indicated by the Minister;
(d) hand over all documents in his possession;
(e) be subject to search and his oral statements may be recorded subject to the applicant being previously informed thereof;
(f) be photographed and have his fingerprints taken:

Provided that if any such applicant is in breach of any of the provisions of paragraphs (a), (b) or (c), he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term of not more than six months.

13. (1) When an applicant explicitly withdraws his application, the Commissioner shall decide either to discontinue the examination or reject the application.

(2) When an applicant has implicitly withdrawn his application, the Commissioner shall ensure that a decision is taken to either discontinue the examination or reject the application on the basis that the applicant has not established an entitlement to refugee status:

Provided that the Commissioner may assume that applicant has implicitly withdrawn his application for international protection when it is ascertained that:

(a) he has refused notification of any document relating to the asylum procedure; or
(b) he has failed to provide information essential to his application or has not appeared for a personal interview unless the applicant demonstrates, within a reasonable time, that his failure was due to circumstances beyond his control; or
(c) he has absconded or left without authorisation the place where he lived or was held, without contacting the competent authorities within a reasonable time or he has not, within thirty days, complied with reporting
PROCEDURAL STANDARDS IN EXAMINING
APPLICATIONS FOR INTERNATIONAL PROTECTION

...duties or other obligations to communicate.

(3) An applicant who reports again to the Commissioner after a decision to discontinue the examination is entitled to request his case to be re-opened within three months of such decision, unless the request is considered as a subsequent application. Such application shall be made in writing stating the reasons supporting such a request.

(4) Service of any document relating to the asylum procedure shall be made by delivery to the applicant for international protection in person, saving that, where this is not possible, such delivery shall be made to his last known address or with his legal advisor or representative.

14. (1) Notwithstanding the provisions of any other law to the contrary, and notwithstanding any deportation or removal order, a person declared to be a beneficiary of international protection shall be entitled:

(a) without prejudice to the provisions of articles 9 and 10 of the Act, to remain in Malta with freedom of movement, and to be granted, as soon as possible, personal documents, including a residence permit for a period of three years, which shall be renewable:

Provided that a residence permit to be granted to a family member may be valid for less than three years and shall be renewable;

(b) unless he is in custody awaiting judicial proceedings for the commission of a criminal offence, or is serving a term of imprisonment, to be given a convention travel document in the case of a refugee and a travel document in accordance with relevant provisions of national law in the case of a beneficiary of subsidiary protection, entitling him to leave and return to Malta without the need of a visa;

(c) to have access to employment or self-employed activities, social welfare, appropriate accommodation, integration programmes, State education and training, and to receive State medical care:

Provided that the social welfare benefits granted to beneficiaries of subsidiary protection may be limited to core social welfare benefits.

(2) (a) Persons granted the status of refugee or subsidiary protection shall also be granted access to existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.

(b) For the purpose of paragraph (a), beneficiaries of international protection who cannot provide documentary evidence of their qualifications shall have access to appropriate schemes for the assessment, validation and accreditation of their prior learning.
(3) (a) Family members of a person granted refugee status, if they are in Malta at the time of the decision or if they join him in Malta, enjoy the same rights and benefits as the refugee so that family unity may be maintained.

(b) Family members of a person granted subsidiary protection, if they are in Malta at the time of decision, enjoy the same rights and benefits as the person enjoying subsidiary protection status so that family unity may be maintained.

(4) Persons granted the status of refugee or subsidiary protection and who are considered as vulnerable persons shall, as far as possible, be provided with adequate health care.

15. (1) A medical examination to determine the age of unaccompanied minors within the framework of any possible application for international protection may be carried out. Such medical examination shall be:

(a) performed with full respect for the individual’s dignity;

(b) the least invasive; and

(c) carried out by qualified medical professionals allowing, to the extent possible, for a reliable result.

(2) For the purpose of this regulation, if, after the medical examination has been conducted by the authority responsible for medical age assessment, there is still doubt with regard to the age of the applicant, it shall be assumed that the applicant is a minor for a period of up to one year.

Provided that:

(a) unaccompanied minors are informed prior to the examination of their application for international protection, and in a language which they may reasonably be supposed to understand, of the possibility that their age may be determined by medical examination. This shall include information on the method of examination and the possible consequences of the result of the medical examination for the examination of the application for international protection, as well as the consequences of refusal on the part of the unaccompanied minor to undergo the medical examination which may include the rejection of his claim that he is a minor;

(b) the Children and Young Persons Advisory Board consents to carry out the determination of the age of the minors concerned;

(c) the decision to reject an application from an unaccompanied minor who refused to undergo this medical examination shall not be based solely on that refusal:

Provided further that an unaccompanied minor who has
refused to undergo such a medical examination shall not prevent the determining authority from taking a decision on the application for international protection and that the best interests of the minor shall be a primary consideration in any such decision.

15A. (1) With regard to an unaccompanied minor falling within the provisions of article 13(3) of the Act, action shall be taken as soon as possible, and not later than thirty days from the issue of the care order under that article, as follows:

(a) it shall be ensured that the appointed representative of the unaccompanied minor is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself for the personal interview. The representative shall be present at the interview and may ask questions or make comments within the framework set by the person who conducts the interview;

(b) where an unaccompanied minor has a personal interview on his application for international protection, that interview is to be conducted and the decision prepared by a person who has the necessary knowledge of the special needs of minors.

(2) Without prejudice to the provisions of sub-regulation (1), unaccompanied minors shall be accommodated in centres specialised in accommodation for minors or in any other accommodation suitable for the minor or entrusted either to his adult relatives or to a foster family:

Provided that, in determining who will be entitled to assume the custody of the minor, regard shall be had to the views of the minor, taking into account the age and degree of maturity of such minor:

Provided further that, as far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and the age and degree of maturity of the minor concerned.

(3) If an unaccompanied minor is granted international protection, the authority responsible for the provision of services to unaccompanied minors, with the assistance of international organisations as necessary, shall proceed with the tracing of the family members of the minor, provided that this is in the best interests of the minor:

Provided that in cases where there may be a threat to the life or integrity of the minor himself or his close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning these persons is undertaken on a confidential basis.
16. The High Commissioner -

(a) shall have access to applicants for international protection, including those in detention and in airport or port transit zones;

(b) shall have access to information on individual applications for international protection, on the course of the procedure and on the decisions taken, when the applicant for international protection agrees thereto;

(c) may be present during any interview and, to present his views in writing, in the exercise of his responsibilities under Article 35 of the Convention, to any competent authorities regarding individual applications for international protection at any stage of the procedure as determined by the Commissioner:

Provided that such rights shall apply to an organisation which is working in Malta on behalf of the UNHCR pursuant to an agreement with Malta.

17. (1) In determining an application as inadmissible on the basis that a country is considered as a safe third country for the applicant, in accordance with article 24 of the Act, the Commissioner shall:

(a) ensure that there is a connection between the applicant and the third country so that the applicant can reasonably be considered as able to go to that country;

(b) ensure that the safety of the third country is assessed on an individual basis, taking into account any analysis made by reputable international organizations that may be available from time to time, including the office of the United Nations High Commissioner for Refugees:

Provided that the applicant shall be able to appeal against the inadmissibility of the application on the basis of the safe third country if he can show that, should he be returned to such country, he will be subjected to torture, cruel, inhuman or degrading treatment or punishment.

(2) In taking the decision referred to in subregulation (1), the Commissioner shall:

(a) inform the applicant of his decision;

(b) provide him with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.

(3) Where the third country does not permit the applicant to enter its territory, the Commissioner shall ensure that the applicant has access to the procedure for the examination of his application in accordance with the Act or these regulations.
18. (1) When considering an application for refugee status, in assessing the fear of persecution, the Commissioner shall take account of the following elements:

(a) the concept of race shall in particular include considerations of colour, descent, or membership of a particular ethnic group;

(b) the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

(c) the concept of nationality shall not be confined to citizenship or lack thereof but shall in particular include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;

(d) a group shall be considered to form a particular social group where in particular:

(i) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and

(ii) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society; and

(iii) depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic or sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in Malta. Gender related aspects, including gender identity, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;

(e) the concept of political opinion shall in particular include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution which include the State, parties or organizations controlling the State or a substantial part of the territory of the State and non-State actors if it can be demonstrated that the other actors are unable or unwilling to provide protection against persecution or serious harm, and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant.
(2) When assessing if an applicant has a well-founded fear of being persecuted, it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.
CHAPTER 188
MALTESE CITIZENSHIP ACT

To provide for the acquisition, deprivation and renunciation of citizenship of Malta and for purposes incidental to or connected with the matters aforesaid.

21st September, 1964


ARRANGEMENT OF ACT

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SCHEDULE

Oath of allegiance
Short title. 1. The short title of this Act is the Maltese Citizenship Act.

Interpretation. Amended by: XXXI. 1972.2; XXIV. 1989.3; IV. 2000.3; XV. 2013.2.

2. (1) In this Act, unless the context otherwise requires -
   "alien" means a person who is not a citizen of Malta;
   "appointed day" has the same meaning as is assigned to it by article 124 of the Constitution:
   "certificate of naturalisation" means a certificate of naturalisation granted under this Act;
   "the Constitution" means the Constitution of Malta;
   "foreign country" means a country other than Malta;
   "individual investor programme" means the individual investor programme as referred to in article 10(9)(b);
   "Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;
   "Maltese consulate" means an office of a consular officer of the Government of Malta where a register of births or residents is kept or, where there is no such office, such office as may be prescribed;
   "the Minister" means the Minister for the time being responsible for matters relating to Maltese citizenship and, to the extent of the authority given, includes any person authorised by such Minister to act on his behalf;
   "oath", "swear" and "affidavit" include, in the case of persons allowed by any law to make a declaration or affirmation instead of taking an oath, a declaration or affirmation;
   "prescribed" means prescribed by regulations made under this Act;
   "stateless" means destitute of any nationality and "stateless person" shall be construed accordingly.

(2) For the purpose of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) A person shall, for the purposes of this Act, be of full age if he has attained the age of eighteen years and of full capacity if he is not of unsound mind.
3. (1) Every person who, having been born in Malta, was on the day before the appointed day a citizen of the United Kingdom and Colonies, shall be deemed to have acquired Maltese citizenship on the appointed day:

Provided that a person shall not be deemed to have become a citizen of Malta by virtue of this subarticle if neither of his parents was born in Malta.

(2) Every person who, having been born outside Malta, was on the day before the appointed day a citizen of the United Kingdom and Colonies shall, if his father became, or would but for his death have become, a citizen of Malta in accordance with the provisions of subarticle (1), be deemed to have become a citizen of Malta on the appointed day:

Provided that a person born outside Malta before the appointed day of a mother who became, or would but for her death have become, a citizen of Malta in accordance with the provisions of subarticle (1), shall be entitled, upon making an application as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(3) Any person born outside Malta before the appointed day who proves he is a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta shall, subject to the following provisions of this article, be entitled, upon making an application as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(4) Any ascendant as provided in subarticle (3) who dies before the 1st August 2007 and who would, but for his death, have been entitled to acquire Maltese citizenship under this article, shall be deemed to have acquired such citizenship for the purposes of subarticle (3).

(5) Where any of the parents of a person applying to be registered as a citizen of Malta by virtue of subarticle (3) was alive on 1st August 2007 (for the purposes of this article referred to as "the relevant parent") and the relevant parent is also a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta, such person shall not be entitled to be registered as a citizen of Malta by virtue of subarticle (3) unless the relevant parent had at any time acquired Maltese citizenship under this article; so however that any such relevant parent who dies before 1st August 2010 and who would have been entitled to acquire such citizenship under subarticle (3) shall be deemed to have acquired such citizenship for the purposes of that subarticle.

(6) The person applying to be registered as a citizen of Malta under subarticle (3) shall be entitled to be registered as a citizen of Malta if the relevant parent dies after the 31st July, 2010 and the relevant parent had applied for and would have been entitled to be
persons entitled to be registered as citizens.

4. (1) Any person who on the day before the appointed day was or had been married to a person -

(a) who became a citizen of Malta by virtue of article 3; or

(b) who having died before the appointed day would, but for his or her death, have become a citizen of Malta by virtue of that article,

shall be entitled upon making an application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(2) Any person who on the day before the appointed day was or had been married to a person who, on or after the appointed day, became a citizen of Malta shall be entitled upon making an application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(3) The provisions of subarticles (1) and (2) shall be without prejudice to the provisions of article 3.

(4) Any person who in accordance with article 44(4)(b) of the Constitution is deemed to be a citizen of Malta for the purposes of that article, and who has returned to, and taken up permanent residence in, Malta, shall be entitled, upon making an application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(5) Notwithstanding any other provision of this Act, but without prejudice to article 65(3) of Act LVIII of 1974, a person shall not be entitled to be registered as a citizen of Malta more than once under the same provisions of this Act.

(6) No person shall be entitled to be registered as a citizen of Malta under subarticles (1) and (2), unless -

(a) the Minister is satisfied that the grant of citizenship to such person is not contrary to the public interest; and

(b) on the date of the application such person was still married to a citizen of Malta, or is the widow or widower of a person who was a citizen of Malta or of a person who having died before the appointed day, would, but for his or her death, have become a citizen of Malta by virtue of article 3:

Provided that no person shall be entitled to be so registered unless such person on the date of the application, is still married to that citizen of Malta and had been so married for at least five years and on that date had been living with that citizen or, if on that date had been de jure or de facto separated, had lived with such citizen of Malta for at least five years after the celebration of the marriage, or is the widow or widower of such citizen and at the time of his or her death had been married to that person for at least five years and was still living with him or her or who would, but for the death of that person, have been so married on the date of the application or, if on the date of death of such citizen had been de jure or de facto
separated from such citizen, had lived with such citizen of Malta for at least five years after the celebration of the marriage.

PART II
ACQUISITION OF CITIZENSHIP BY BIRTH OR DESCENT

5. (1) Every person born in Malta on or after the appointed day shall be deemed to have become or shall become, a citizen of Malta at the date of his birth:

Provided that in the case of a person born on or before the 31st July, 1989, such person shall not be deemed to have become a citizen of Malta by virtue of this subarticle if at the time of his birth -

(a) neither of his parents was a citizen of Malta and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Malta; or

(b) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy:

Provided further that in the case of a person born on or after the 1st August, 1989 such person shall not become a citizen of Malta by virtue of this subarticle unless at the time of his birth, his father or his mother was or is:

(a) a citizen of Malta; or

(b) a person referred to in article 44(4)(a) or (b) of the Constitution;

Provided further that the preceding two provisos of this subarticle shall not apply in the case of a new-born infant found abandoned in any place in Malta who would in virtue thereof be stateless, and any such infant shall remain a citizen of Malta until his right to any other citizenship is established.

(2) A person born outside Malta on or after the appointed day shall be deemed to have become or shall become a citizen of Malta at the date of his birth:

(a) in the case of a person born on or before the 31st July, 1989, if at the date of such person’s birth, his father was a citizen of Malta otherwise than by virtue of this subarticle or article 3(2):

Provided that a person born on or before the 31st July, 1989, if at the date of such person’s birth his mother was a citizen of Malta otherwise than by virtue of this subarticle or article 3(2) shall be entitled, upon making an application as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta; and

(b) in the case of a person born on or after the 1st August,
1989, if at the date of such person’s birth, his father or mother is a citizen of Malta otherwise than by virtue of this subarticle, subarticle (3) of this article or subarticle (2) or (3) of article 3.

(3) A person born outside Malta on or after the appointed day who proves he is a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta shall be entitled, upon making an application as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta:

Provided that when the said person is a minor, any such person who according to law has authority over that minor, may submit an application for the registration of the said minor as a citizen of Malta.

(4) Any ascendant as provided in subarticle (3) who dies before the 1st August 2007 and who would, but for his death, have been entitled to acquire Maltese citizenship under this article, shall be deemed to have acquired such citizenship for the purposes of subarticle (3).

(5) Where any of the parents of a person applying to be registered as a citizen of Malta by virtue of subarticle (3) was alive on 1st August 2007 (for the purposes of this article referred to as "the relevant parent") and the relevant parent is also a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta, such person shall not be entitled to be registered as a citizen of Malta by virtue of subarticle (3) unless the relevant parent had at any time acquired Maltese citizenship under this article or under article 3; so however that any such relevant parent who dies before 1st August 2010 and who would have been entitled to acquire such citizenship under subarticle (3) or under subarticle (3) of article 3 shall be deemed to have acquired such citizenship for the purposes of that subarticle.

(6) Where any of the parents of a person applying to be registered as a citizen of Malta by virtue of subarticle (3) was born on or after 1st August 2007 (for the purposes of this article referred to as "the relevant parent") and the relevant parent is also a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta, such person shall not be entitled to be registered as a citizen of Malta by virtue of subarticle (3) unless the relevant parent had at any time acquired Maltese citizenship under this article.

(7) The person applying to be registered as a citizen of Malta under subarticle (3) shall be entitled to be registered as a citizen of Malta if the relevant parent dies after the 31st July, 2010 and the relevant parent had applied for and would have been entitled to be granted Maltese citizenship under this article or under article 3.
PART III

CITIZENSHIP ACQUIRED BY REGISTRATION AFTER MARRIAGE

6. (1) Any person who on or after the appointed day marries a person who is or becomes a citizen of Malta shall be entitled, upon making application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(2) No person shall be entitled to be registered as a citizen of Malta in virtue of this article unless:

(a) the Minister is satisfied that the grant of citizenship to such person is not contrary to the public interest; and

(b) on the date of the application such person was still married to a citizen of Malta or is the widow or widower of a person who was a citizen of Malta at the time of his or her death:

Provided that no person shall be entitled to be so registered unless such person on the date of the application, is still married to that citizen of Malta and had been so married for at least five years and on that date had been living with that citizen or, if on that date had been de jure or de facto separated, had lived with such citizen of Malta for at least five years after the celebration of the marriage, or is the widow or widower of such citizen and at the time of his or her death had been married to that person for at least five years and was still living with him or her or who would, but for the death of that person, have been so married on the date of the application or, if on the date of death of such citizen had been de jure or de facto separated from such citizen, had lived with such citizen of Malta for at least five years after the celebration of the marriage.

PART IV

MULTIPLE CITIZENSHIP

7. It shall be lawful for any person to be a citizen of Malta, and at the same time a citizen of another country.

8. Any person who prior to the coming into force of this article was deemed under the provisions of the Constitution of Malta or of any other law to have ceased to be a citizen of Malta because of the possession or acquisition, voluntary or involuntary of any other citizenship, shall be entitled upon making application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta:

Provided that no person shall be entitled to be registered as a citizen of Malta under this article if such person had been a citizen of Malta other than by virtue of articles 3 or 5 or by virtue of articles 22 or 25 of the Constitution as in force prior to the coming into force of the Constitution (Amendment) Act, 2000, and the Minister is satisfied that the grant of citizenship to such person
9. Any person who was at any time a citizen of Malta in terms of articles 3 or 5 of this Act or in terms of articles 22 or 25 of the Constitution as in force prior to the coming into force of the Constitution (Amendment) Act 2000, and resided in any country outside Malta for an aggregate period of at least six years, acquired or retained the citizenship of any other country, shall be deemed not to have ever ceased to be a citizen of Malta.

PART V
CITIZENSHIP BY NATURALISATION

10. (1) An alien or a stateless person, being a person of full age and capacity, on making application therefor to the Minister in the prescribed manner, may be granted a certificate of naturalisation as a citizen of Malta if he satisfies the Minister -

(a) that he has resided in Malta throughout the period of twelve months immediately preceding the date of application; and

(b) that, during the six years immediately preceding the said period of twelve months, he has resided in Malta for periods amounting in the aggregate to not less than four years; and

(c) that he has an adequate knowledge of the Maltese or the English language; and

(d) that he is of good character; and

(e) that he would be a suitable citizen of Malta:

Provided that the Minister may, if he so thinks fit in the special circumstances of any particular case, allow periods of residence earlier than seven years before the date of application to be reckoned in computing the aggregate mentioned in paragraph (b).

(2) Any person of full age and capacity born outside Malta may, on making application therefor to the Minister in the prescribed manner, be granted a certificate of naturalisation as a citizen of Malta -

(a) if his father, or in the case of a person born on or after the 1st August, 1989, if either of his parents became, or would but for his death have become, a citizen of Malta by virtue of article 3(2), or

(b) if his father, or in the case of a person born on or after the 1st August, 1989, if either of his parents, at the time of that person's birth, was, or would but for his death have been, a citizen of Malta by virtue of article 5(2).

(3) Any person of full age and capacity who -
(a) has emigrated from Malta (whether before, on or after the 21st September, 1964) and, having been a citizen of Malta by virtue of article 3(1) or article 5(1), has ceased to be such a citizen; or

(b) emigrated from Malta before the 21st September, 1964 and, but for his having ceased to be a citizen of the United Kingdom and Colonies before that day, would have become a citizen of Malta by virtue of article 3(1),

may, on making application therefor to the Minister in the prescribed manner, be granted a certificate of naturalisation as a citizen of Malta.

(4) Any person of full age and capacity who proves descent from a person born in Malta and who is a citizen of a country other than the country in which he resides, and whose access to the country of which he is a citizen is restricted, may on making application therefor to the Minister in the prescribed manner, be granted a certificate of naturalisation as a citizen of Malta:

Provided that such person shall not be entitled to be granted a certificate of naturalisation as a citizen of Malta under the provisions of this subarticle if the Minister is satisfied that the grant of citizenship to such person is contrary to the public interest.

(5) A person shall not be granted a certificate of naturalisation as a citizen of Malta under the foregoing subarticles unless and until he has taken an oath of allegiance in the form specified in the Schedule to this Act.

(6) Subject to the provisions of subarticles (7) and (8), a person shall be entitled, on making application to the Minister in the prescribed manner, to be granted a certificate of naturalisation as a citizen of Malta if he satisfies the Minister that he is and always has been stateless, and -

(a) that he was born in Malta, or

(b) that his father was a citizen of Malta at the date of his birth by virtue of the provisions of article 3(2) or article 5(2) or that his mother was at that date a citizen of Malta.

(7) A person referred to in subarticle (6)(a) shall not be entitled to be granted a certificate of naturalisation as a citizen of Malta under the provisions of that subarticle if the Minister is satisfied -

(a) that he has not been ordinarily resident in Malta throughout the period of five years ending with the date of the application; or

(b) that he has either been convicted in any country of an offence against the security of the State or has been sentenced in any country to a punishment restrictive of personal liberty for a term of not less than five years.

(8) A person referred to in subarticle (6)(b) shall not be entitled to be granted a certificate of naturalisation as a citizen of Malta
under the provisions of that subarticle if the Minister is satisfied -

(a) that he has not been ordinarily resident in Malta throughout the period of three years ending with the date of his application; or

(b) that he has been convicted in any country of an offence against the security of the State.

(9) Notwithstanding the provisions of this or any other Act, the Minister may grant a certificate of naturalisation as a citizen of Malta:

(a) to the spouse of any citizen of Malta when either the spouse or the said citizen has rendered exceptional services to the Republic of Malta or to humanity; or

(b) to any person who is an applicant, or is a spouse or an eligible dependant of such applicant, under the individual investor programme of the Republic of Malta, and satisfies the requirements as prescribed under this Act:

Provided that such person makes an application in such manner as may be prescribed and upon taking the oath of allegiance in Malta.

11. (1) The Minister may cause the minor child of any citizen of Malta to be granted a certificate of naturalisation as a citizen of Malta upon application made in the prescribed manner by the person who according to law has authority over him.

(2) The Minister may, in such special circumstances as he thinks fit, cause any minor to be granted a certificate of naturalisation as a citizen of Malta.

12. A person registered as a citizen of Malta under article 4 or 6 of this Act or granted a certificate of naturalisation under this Act shall become a citizen of Malta by registration or naturalisation, as the case may be, on the date on which he is registered or naturalised.

PART VI

RENUNCIATION AND DEPRIVATION OF CITIZENSHIP

13. (1) If any citizen of Malta of full age and capacity who is also a national of a foreign country makes a declaration in the prescribed manner of renunciation of citizenship of Malta, the Minister may cause the declaration to be registered; and upon registration, that person shall cease to be a citizen of Malta.

(2) The Minister may refuse to register any declaration of the kind mentioned in subarticle (1) if it is made during any war in which Malta may be engaged or if, in his opinion, it is otherwise contrary to public policy.
14. (1) Subject to the provisions of this article, the Minister may by order deprive of his Maltese citizenship any citizen of Malta who is such by registration or naturalisation if he is satisfied that the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact.

(2) Subject to the provisions of this article, the Minister may by order deprive of his Maltese citizenship any citizen of Malta who is such by registration or by naturalisation if he is satisfied that the citizen -

(a) has shown himself by act or speech to be disloyal or disaffected towards the President or the Government of Malta; or

(b) has, during any war in which Malta was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or

(c) has, within seven years after becoming naturalised, or being registered as a citizen of Malta, been sentenced in any country to a punishment restrictive of personal liberty for a term of not less than twelve months; or

(d) has been ordinarily resident in foreign countries for a continuous period of seven years and during that period has neither -

(i) been at any time in the service of the Republic or of an international organisation of which the Government of Malta was a member; or

(ii) given notice in writing to the Minister of his intention to retain citizenship of Malta.

(3) The Minister shall not deprive a person of citizenship under this article unless he is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Malta and, in the case referred to in subarticle (2)(c), it appears to him that that person would not thereupon become stateless.

(4) Before making an order under this article, the Minister shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and of his right to an inquiry under this article; and if that person applies in the prescribed manner for an inquiry, the Minister shall refer the case to a committee of inquiry consisting of a chairman, being a person possessing judicial experience, appointed by the Minister and of such other members appointed by the Minister as he thinks proper.

(5) The Minister may make rules for the practice and procedure to be followed in connection with a committee of inquiry appointed under this article, and such rules may, in particular, provide for conferring on any such committee any powers, rights or privileges of any court, and for enabling any powers so conferred to be exercised by one or more members of the committee.
15. (1) A citizen of Malta who is deprived of his citizenship by an order of the Minister under article 14 shall, upon the making of the order, cease to be a citizen of Malta.

(2) The renunciation by any person of his Maltese citizenship or the deprivation of any person’s Maltese citizenship under the provisions of this Part of this Act shall not affect the liability of that person for any offence committed by him before the renunciation or deprivation of his citizenship.

PART VII
SUPPLEMENTAL

16. For the purposes of Parts V and VI of this Act, any woman who has been married shall be deemed to be of full age.

17. (1) In this Act -

(a) any reference to the father of a person shall, in relation to a person born out of wedlock and not legitimated be construed as a reference to the mother of that person;

(b) any reference to the father of a person who was lawfully adopted before the 1st January, 1977, shall be construed as a reference to the adopter and in the case of a joint adoption, the male adopter; and

(c) any reference to the parents of a person who was lawfully adopted on or after the 1st August, 1989, and who was on the effective date of his adoption under the age of ten years, shall be construed as a reference to the adopters.

(2) For the purposes of this Act:

(a) an adoption of any person made on or after the 1st January, 1977, and before the 1st August, 1989, shall be without effect and shall be treated as if it had not been made; and

(b) an adoption of any person made on or after the 1st August, 1989, who on the effective date of his adoption was ten years or over, shall be without effect and shall be treated as if it had not been made.

(3) Where after the commencement of this Act a newborn infant is found abandoned in any place in Malta, that infant shall, unless the contrary is shown, be deemed to have been born in Malta and in any such case the provisions of the third proviso to article 5(1) shall apply to such infant.

18. Any reference in this Act to the national status of the father of a person at the time of that person’s birth shall, in relation to a person born after the death of his father, be construed as a reference
MALTESE CITIZENSHIP

19. The Minister shall not be required to assign any reason for the grant or refusal of any application under this Act and the decision of the Minister on any such application shall not be subject to appeal to or review in any court.

20. The Minister may in such cases as he thinks fit, on the application of any person with respect to whose citizenship of Malta a doubt exists, whether on a question of fact or law, certify that that person is a citizen of Malta; and a certificate issued under this article shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

21. (1) Every application under this Act shall be made to the Minister.

(2) Every application to the Minister under this Act -

(a) shall be accompanied by the prescribed fee (if any);

(b) where the form of any such application is prescribed under this Act, shall be made in such form with such variations as the circumstances require and the Minister accepts;

(c) shall be supported by such evidence of the statements made therein as may be prescribed under this Act or as the Minister may require; and

(d) shall be verified by an affidavit made before a magistrate or commissioner for oaths.

22. (1) Every document purporting to be a notice, certificate, order or declaration, or any entry in a register, or a subscription of an oath of allegiance or declaration of renunciation, given, granted or made under this Act, shall be received in evidence, and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

(2) Prima facie evidence of any such document as aforesaid may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Act shall be received as evidence of the matters stated in the entry.
23. (1) Any person who, for the purpose of procuring anything to be done or not to be done under this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding six months or to a fine (\textit{multa}) of not less than one hundred and sixteen euro and forty-seven cents (116.47) nor more than two hundred and thirty-two euro and ninety-four cents (232.94) or to both such imprisonment and fine.

(2) Any person who fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalisation or certificates of registration shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding six months or to a fine (\textit{multa}) of not less than one hundred and sixteen euro and forty-seven cents (116.47) nor more than two hundred and thirty-two euro and ninety-four cents (232.94) or to both such imprisonment and fine.

(3) Any person who for gain and without being duly authorised, in violation of regulations made under this Act, advertises, publishes or disseminates publicly through any means whatsoever any information relating to the individual investor programme referred to in article 10(9)(b) shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine (\textit{multa}) not exceeding twenty thousand euro (€20,000).

24. (1) The President of Malta may by regulations make provision generally for carrying into effect the purposes of this Act and in particular -

(a) for prescribing anything which is to be prescribed under this Act;

(b) for the registration of anything required or authorised under this Act to be registered;

(c) for the administration and taking of oaths of allegiance under this Act, for the time within which oaths of allegiance shall be taken and for the registration of oaths of allegiance;

(d) for the giving of any notice required or authorised to be given to any person under this Act;

(e) for the cancellation of the registration of, and the cancellation and amendment of certificates relating to persons deprived of citizenship under this Act, and for requiring such certificates to be delivered up for those purposes;

(f) for the registration of the births and deaths of persons of any class or description born or dying elsewhere than in Malta and otherwise for registration at Maltese consulates;

(g) for enabling the births and deaths of citizens of Malta born or dying in any country in which the Government
of Malta has for the time being no diplomatic or consular representative to be registered by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with the Government of Malta, has undertaken to represent that Government’s interest in that country, or by a person authorised in that behalf by the President of Malta, and for the registration thereby of citizens of Malta ordinarily resident outside Malta;

(h) for prescribing forms, and providing for the imposition and recovery of fees, in respect of any application made to the Minister or in respect of any registration, or the making of any declaration, or the grant of any certificate, or the taking of any oath of allegiance, authorised to be made, granted or taken by or under this Act, and in respect of supplying a certified or other copy of any notice, certificate, order, declaration or entry, given, granted or made as aforesaid, and for providing for any contributions or other fees of whatever nature in respect of the individual investor programme, and providing that the provisions or any of the provisions of the Fees Ordinance shall apply to such fees as if they were fees prescribed thereunder;

(i) for prescribing the requirements for and administration of the individual investor programme and for the granting of a certificate of naturalisation as a citizen of Malta to an applicant, and spouse and eligible dependants of such applicant, meeting the requirements as may be prescribed.

(2) Any regulations made under this article shall be laid before the House of Representatives as soon as may be after they are made, and if, within the next twenty days beginning with the day on which any such regulations are so laid before it, the House of Representatives resolves that the regulations be annulled, they shall thenceforth be void, but without prejudice to anything previously done thereunder or to the making of any new regulations:

Provided that there shall not be included in the computation of the said twenty days any period of four or more consecutive days intervening between any two consecutive sittings of the House of Representatives.

25. (1) The Prime Minister, after consulting the Leader of the Opposition, shall appoint as a Regulator for the purposes of the correct implementation and monitoring of the individual investor programme, a person who has held the office of Judge or Magistrate, or who has held the office of Attorney General, or Permanent Secretary or who has practiced as an advocate in Malta for a period of at least twelve years:

Provided that during such time when a Regulator is not appointed the Ombudsman appointed under the Ombudsman Act shall act ex officio as Regulator.
(2) The Regulator shall hold office in accordance with the terms of his appointment.

(3) In addition to his functions under this Act and such other functions as may be assigned to him under any law the Regulator shall keep under review all aspects of the individual investor programme.

(4) The Prime Minister may by regulations assign to the Regulator any other function related to citizenship.

(5) In the discharge of his functions under this Act, the Regulator shall act in his individual judgment and shall not be subject to the direction or control of any other person or authority.

(6) It shall be the duty of any person involved in the administration of the individual investor programme or of any other matter in relation to which the Regulator is assigned functions under sub-article (4) to disclose or give to the Regulator such documents or information as he may require for the purpose of enabling him to discharge his functions.

(7) The Regulator may at any time report to the Minister on any matter relating to the discharge of his functions under this Act.

(8) The Regulator shall make an annual report on the discharge of his functions to the Minister which annual report shall not include personal data relating to individuals who have acquired Maltese citizenship under the individual investor programme.

(9) The Minister shall lay a copy of each annual report made by the Regulator under sub-article (8) on the Table of the House as soon as possible after the report is made to him.

25A. The Regulator shall also investigate complaints about the individual investor programme in the manner prescribed under this Act.

25B. (1) There shall be a Committee, to be known as the Monitoring Committee, to monitor the workings of the individual investor programme.

(2) The Monitoring Committee shall consist of the Prime Minister, the Minister and the Leader of the Opposition. The meetings of the Committee shall be presided by the Prime Minister and the Committee shall regulate its own procedure.

(3) The Monitoring Committee shall meet at least once a year, and it shall be entitled to call the Regulator to report to the Committee at its meetings.

PART VIII

PROVISIONS RELATING TO TIME

26. (1) The Minister and any officer of the Government authorised in that behalf by the Minister may:
(a) declare that any period specified in Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000, within which a person therein referred to could have made an application for registration, shall, in relation to any such person who is of unsound mind during that period, be so extended as to permit, in the opinion of the Minister or such authorised officer, such person when of sound mind an opportunity of making application for registration under the said Chapter III as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000;

(b) in any other case in which he is satisfied that any person referred to in Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000, is by reason of any circumstances not attributable to his default or neglect, unable to make application within the period specified or prescribed in relation to that person in such Chapter, declare that such period in relation to that person shall be so extended as to permit, in the opinion of the Minister or such authorised officer, that person an opportunity of making application for registration under Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000.

(2) The power of the Minister and any officer of the Government authorised on that behalf by the Minister under this article may be exercised before or after the expiration of the relevant period specified in Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000.

27. (1) The acquisition or retention of Maltese citizenship by any person under the Constitution of Malta or any other law, prior to the enactment of the Maltese Citizenship (Amendment) Act, 2000 shall not be affected in any way by the provisions of the said Act.

(2) This Act shall not apply with regard to any application for registration as a citizen of Malta filed before the 15th day of August, 1999.
SCHEDULE

[ARTICLE 10]

OATH OF ALLEGIANCE

I,.......................................................... solemnly swear/affirm that I will bear true faith and allegiance to the People and the Republic of Malta and its Constitution. (So help me God).
CITIZENSHIP

SUBSIDIARY LEGISLATION 188.01
CITIZENSHIP REGULATIONS

1st August, 1989


1. The title of these regulations is the Citizenship Regulations.

2. In these regulations, unless the context otherwise requires -
   "the Act" means the Maltese Citizenship Act;
   "applicant" means the person who applies, or on whose behalf it is being applied, for his registration or, as the case may be, for his naturalization as a citizen of Malta;
   "the Minister" has the same meaning as is assigned to it in the Act.

3. (1) The forms set out in the First Schedule are prescribed and shall be used for the purposes for which they are designed with such variations as the circumstances of the case may require:

   Provided that the Minister may dispense with any information required in any of the said forms which is not essential for the purpose of ascertaining the applicant’s qualifications to be registered or, as the case may be, naturalized as a citizen of Malta and may require for the said purpose any such additional information as he may deem proper to obtain:

   Provided further that, where, in any of the said forms, a sponsor is required to hold a specific qualification and the person in whose respect the application is made resides in a place outside Malta, the Minister may accept as sponsor any person as he may deem proper, subject to such person being a citizen of Malta.

   (2) Where an applicant resides abroad and the application is made in a foreign country, for the purpose of these regulations any reference in the forms set out in the First Schedule to a Commissioner for Oaths shall be deemed to include a reference to a person who under the law of that country is empowered to administer oaths.

4. A declaration regarding renunciation of citizenship of Malta under article 13(1) of the Act shall be in the relative form set out in the Second Schedule, and shall be signed by the declarant before a Commissioner for Oaths:

   Provided that, where the declarant resides abroad and the declaration is made in foreign country, it may be signed by him before any person who under the law of that country is empowered to administer oaths.
5. (1) When it is proposed to make an order under article 14 of the Act depriving a person of his citizenship of Malta, the notice required by sub-article (4) of that article to be given to that person may be given -

(a) in a case where that person’s whereabouts are known, by causing the notice to be delivered to him personally or by sending it to him by post;

(b) in a case where that person’s whereabouts are not known, by sending it to his last known address.

(2) Where the Minister has given notice as aforesaid and the person to whom it is given wishes to apply for an inquiry under article 14(4) of the Act, the application shall be made in writing to the Minister -

(a) if that person is in Malta at the time when the notice is given to him, within twenty-one days from the giving of the notice;

(b) in any other case, within such time, being not less than twenty-one days from the giving of the notice, as the Minister may determine:

Provided that the Minister may in special circumstances at any time extend the time within which the application may be made.

(3) Any notice given under article 14(4) of the Act shall include a statement of the time within which an application for an inquiry must be made.

6. Every application made in a form set out in the First and Second Schedules to these Regulations shall be accompanied by the documents, if any, specified in that form and by any such other documents as the Minister may require in evidence of applicant’s qualifications to be registered or, as the case may be, naturalized as a citizen of Malta.

7. (1) The fees set out in the Third Schedule to these Regulations shall be paid for the matters therein respectively specified.

(2) The provisions of articles 4 and 6 of the Fees Ordinance shall apply to the said fees as if they were fees prescribed under that Ordinance.
FIRST SCHEDULE
(Regulation 3)

APPLICATION FORMS

FORM A

APPLICATION FOR NATURALIZATION AS A CITIZEN OF MALTA

(Under article 10(4) of the Maltese Citizenship Act)

PART I - APPLICATION

1. I, .........................................................................................................................
of .................................................................................................................................
being a ........................................ citizen residing in .....................................
................................................. whose access to ................. is restricted, hereby apply
to be naturalized as a citizen of Malta on the grounds that I am the descendant
of a person born in Malta.

Dated at .................................. this ............... day of .................. 20........... .

..................................................

Signature

PART II - PARTICULARS OF APPLICANT

2. Place, name of country and date of birth of applicant ....................................
.................................................................................................................................

3. Father’s full name ..............................................................................................

4. Mother’s name and maiden surname ................................................................

5. Descent of applicant from person born in Malta:
.................................................................................................................................
.................................................................................................................................
.................................................................................................................................

Substituted by:
Amended by:
L.N. 188 of 2007;
L.N. 17 of 2014;
L.N. 63 of 2014.
6. Applicant’s address/addresses for the last ten years -

........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

7. Evidence of citizenship held and of limitation of right of access -

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........................................................................................................................................
........................................................................................................................................

PART III - CERTIFICATE OF SPONSORS

8. I, ........................................................................................................................................
of ........................................................................................................................................
being a citizen of Malta, otherwise than by naturalisation, hereby certify that
the applicant herein is a person known to me and of good character, that in my
opinion he would be a suitable citizen of Malta and that the particulars in this
application are correct to the best of my knowledge and belief. I have known
him/her* for .................. years.

Dated this ......................... day of .................. 20...... .

........................................................................................................................................
	Witness to signature  	Signature of Sponsor

........................................................................................................................................

Name in Block Letters

I.D./Passport No. .................. I.D./Passport No. ..................

*Delete as applicable.
9. I, .................................................................................................................................
of .................................................................................................................................
being a citizen of Malta, otherwise than by naturalisation, hereby certify that
the applicant herein is a person known to me and of good character, that in my
opinion he would be a suitable citizen of Malta and that the particulars in this
application are correct to the best of my knowledge and belief. I have known
him/her* for ........ years.

Dated this ................................. day of ..................... 20...... .

................................................................................. .................................
Witness to signature                          Signature of Sponsor

.................................................................................
Name in Block Letters

I.D./Passport No. ....................... I.D./Passport No. ....................... 

PART IV - DECLARATION BY APPLICANT

10. I, .................................................................................................................................
of .................................................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and belief
the particulars stated in this application are true, and in the event of my
application being granted I undertake to do all things necessary to evidence my
new allegiance.

..................................................
Signature of Applicant

Sworn/Affirmed before me at ...............
this .................... day of ..................... 20...... .

..................................................
Signature
(Commissioner for Oaths)

*Delete as applicable.
FORM B

APPLICATION FOR REGISTRATION AS A CITIZEN OF MALTA BY A PERSON MARRIED TO A CITIZEN OF MALTA

(Under article 4, or article 6 of the Maltese Citizenship Act)

PART I - APPLICATION

1. I, ........................................................................................................................................

of ........................................................................................................................................

hereby apply for registration as a citizen of Malta under article 4/6* of the Maltese Citizenship Act, on the grounds that I am:

*(a) married to a citizen of Malta, or

*(b) the widow/widower* of a person who was a citizen of Malta at the time of his or her death, or

*(c) the widow/widower* of a person who would, but for his or her death, have become a citizen of Malta.

AND

*(i) I have been so married for at least five years and am still living with my spouse; or

*(ii) I am separated from my spouse with whom I had lived for at least five years after the celebration of marriage; or

*(iii) I had lived with my spouse for at least five years after the celebration of marriage; or

*(iv) I was still living with my spouse at the time of his/her* death and a period of at least five years has elapsed from the date of our marriage.

Dated this ......................... day of ................... 20...... .

PART II - PARTICULARS OF APPLICANT

2. Place and date of marriage ................................................................................................

3. Place and date of birth .....................................................................................................

*Delete as applicable.
4. Father’s full name ..................................................................................................  
5. Present nationality ..................................................................................................  

..................................................................................................................................................  
6. Name of spouse (or late spouse) .................................................................................  
7. Place and date of birth of spouse ...................................................................................  
8. Spouse’s present address (or last address if deceased) .............................................  
9. How spouse’s citizenship was acquired (by birth, descent, registration, naturalization*).  
10. Applicant’s address/addresses for the last ten years -  
..................................................................................................................................................  
..................................................................................................................................................  
..................................................................................................................................................  
..................................................................................................................................................

PART III - DECLARATION BY APPLICANT  

11. I, .................................................................................................................................  
do solemnly and sincerely declare that to the best of my knowledge and belief the particulars stated in this application are true.  

..................................................................................................................................................  
Signature of Applicant  

Sworn/Affirmed before me at ........................................  
this ...................... day of .............................. 20......  

..................................................................................................................................................  
Signature  
(Commissioner for Oaths)  

*Delete as applicable.
PART IV - APPLICANT’S UNDERTAKING

12. I, ..............................................................................................................................
undertake, for the purpose of the registration as a citizen of Malta, to do all
things necessary to evidence my new allegiance.

......................................................
Signature of Applicant
CITIZENSHIP

FORM C

APPLICATION FOR REGISTRATION AS A CITIZEN OF MALTA

(Under article 4(4) of the Maltese Citizenship Act)

PART I - APPLICATION

1. I, ...........................................................................................................
of ...........................................................................................................
hereby apply for registration as a citizen of Malta under article 4(4)* of the
Maltese Citizenship Act, on the grounds that -

*(a) I have been a citizen of Malta by virtue of article 3/5(1)* of the Maltese
Citizenship Act and have ceased to be such a citizen after emigrating
from Malta,

*(b) I have emigrated from Malta before 21st September, 1964, and I would
have become a citizen of Malta by virtue of article 3(1) of the Maltese
Citizenship Act, but for my having ceased to be a citizen of the United
Kingdom and Colonies before that day:

and have returned to, and taken up permanent residence in, Malta.

Dated this ............................. day of ................... 20...... .

........................................
Signature

PART II - PARTICULARS OF APPLICANT

2. Place and date of birth of applicant ...................................................

.......................................................... and father’s full name ...........................

3. Evidence of facts stated .................................................................

.......................................................... ..........................................................

..........................................................

..........................................................

*Delete as applicable.
PART III - DECLARATION BY APPLICANT

5. I, ........................................................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and belief  
the particulars stated in this application are true.

.............................................................  
Signature of Applicant  

Sworn/Affirmed before me at .............................................  

this ..................... day of ............................... 20....... .  

.............................................................  
Signature  
(Commissioner for Oaths)  

PART IV - APPLICANT’S UNDERTAKING

6. I, ........................................................................................................................................  
undertake, for the purpose of the registration as a citizen of Malta, to do all  
things necessary to evidence my new allegiance.  

.............................................................  
Signature of Applicant
FORM D

APPLICATION FOR REGISTRATION AS A CITIZEN OF MALTA

(Under article 8 of the Maltese Citizenship Act)

1. I, ......................................................................................................................................................
of ................................................................................................................................................................
being a citizen of ........................................................................................................................................
hereby apply for registration as a citizen of Malta under article 8 of the Maltese Citizenship Act, on the grounds that I have been a citizen of Malta and have ceased to be such a citizen.

Dated this ........................................... day of .................... 20......

..............................................................
Signature

PART II - PARTICULARS OF APPLICANT

2. Place and country of birth .............................................................................................................

3. Date of birth .................................................................................................................................

4. Father’s full name .......................................................................................................................  

5. Mother’s name and maiden surname .......................................................................................  

6. How Maltese citizenship was previously acquired :
   *(i) By birth ............................................................................................................................. ; or
   *(ii) By registration :
         Certificate No. .............................................. Date: ............. ; or
   *(iii) By naturalization:
         Certificate No. .............................................. Date: .............

7. How Maltese citizenship was lost:
   ........................................................................................................................................................
   ........................................................................................................................................................
   ........................................................................................................................................................

*Delete as applicable.
PART III - DECLARATION BY APPLICANT

8. I, ................................................................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and belief
the particulars stated in this application are true, and I undertake to do all
things necessary to evidence my new allegiance.

..................................................  
Signature of Applicant

Sworn/Affirmed before me at ...........................................

this ..................... day of ......................... 20...... .

..................................................  
Signature

(Commissioner for Oaths)
FORM E

APPLICATION FOR NATURALIZATION AS A CITIZEN OF MALTA

(Under article 10(1) of the Maltese Citizenship Act)

PART I - APPLICATION

1. I, ..................................................................................................................
of ..................................................................................................................
being a citizen of ......................................................................................
hereby apply to be naturalized as a citizen of Malta. I have resided in Malta throughout the period of twelve months immediately preceding the date of this application, and, during the six years immediately preceding the said period of twelve months, I have resided in Malta for periods amounting in the aggregate to not less than four years. I am of good character. I have an adequate knowledge of Maltese/English*.

Dated this ................................. day of ................... 20......

.................................................................
Signature

PART II - PARTICULARS OF APPLICANT

2. Place and date of birth of applicant ......................................................
.................................................................

3. Nationality at birth ............................................................................

4. Evidence of citizenship held ............................................................

.................................................................

5. Occupation ......................................................................................

6. State if single, married or widowed ...................................................

7. Father’s full name and address (if living) .........................................

.................................................................

8. Father’s nationality ..........................................................................

(if dead give nationality at time of death)

9. Mother’s full name and address (if living) ........................................

.................................................................

*Delete as applicable.
10. Mother’s nationality ........................................................................................................
    (if dead give nationality at time of death)
11. Date of any previous application for naturalisation ..............................................
12. If original name has been changed give particulars ..............................................
13. If nationality has been changed since birth give particulars .................................
14. If now of no nationality, give circumstances in which lost .................................
15. Give particulars of all criminal proceedings taken against the applicant at any
country ................................................................................................................................
16. If married give date and place of marriage ...........................................................
17. Husband’s or wife’s full name before marriage ...................................................
18. If husband or wife is dead, give place and date of death .......................................  
19. Evidence of previous residence in Malta ..............................................................  
    ........................................................................................................................................
    ........................................................................................................................................

PART III - CERTIFICATES OF SPONSORS

Please use block letters

20. I, .................................................................................................................................
    .................................................................................................................................
    being a citizen of Malta, otherwise than by naturalization, hereby certify that
    the applicant herein is a person known to me and of good character, that in my
    opinion he/she* would be a suitable citizen of Malta and that the particulars in
    this application are correct to the best of my knowledge and belief. I have
    known him/her* for ...... years.**

Dated this ................................. day of ...................... 20..... .

.............................................. .........................................................
Witness to signature          Signature of Sponsor

..............................................
Name in Block Letters

I.D.Number. ....................... I.D Number. .........................

*Delete as applicable.
**Applicant must have been known to sponsor for at least 2 years.
(Note: The sponsor in the case of paragraph 20 must be a member of the House of Representatives, a Judge, a Magistrate, an advocate, a notary public, a legal procurator, a medical practitioner, a public officer not below the rank of principal, a police officer not below the rank of inspector, an officer of the Armed Forces of Malta not below the rank of captain, a parish priest.)

21. I, ........................................................................................................................................
of ........................................................................................................................................
being a citizen of Malta, otherwise than by naturalization, hereby certify that
the applicant herein is a person known to me and of good character, that in my
opinion he/she* would be a suitable citizen of Malta and that the particulars in
this application are correct to the best of my knowledge and belief. I have
known him/her* for ...... years.**

Dated this ......................... day of .................... 20...... .

................................. ..............................................................
Witness to signature Signature of Sponsor

..........................................................
Name in Block Letters

I.D.Number. ..................... I.D Number. .....................

(Note: The sponsor in the case of paragraph 21 need not be in the class
mentioned in the note to paragraph 20.)

PART IV - DECLARATION BY APPLICANT

22. I, ........................................................................................................................................
do solemnly
and sincerely declare that to the best of my knowledge and belief the
particulars stated in this application are true, and in the event of my application
being granted I undertake to do all things necessary to evidence my new
allegiance.

*Delete as applicable.
** Applicant must have been known to sponsor for at least 2 years.
Signature of Applicant

Sworn/Affirmed before me at ........................................

this ..................... day of ......................... 20......

Signature

(Commissioner for Oaths)
FORM F

APPLICATION FOR NATURALIZATION AS A CITIZEN OF MALTA

(Under article 10(2) of the Maltese Citizenship Act)

PART I - APPLICATION

1. I, ........................................................................................................................................
of ........................................................................................................................................
being a citizen of ...................................................................................................................
hereby apply to be naturalized as a citizen of Malta on the grounds that I was born on ........................... and my father/mother*

*(a) became a citizen of Malta by virtue of article 22(2) of the Maltese Citizenship Act; or

*(b) would but for his death have become a citizen of Malta by virtue of article 3(2) of the Maltese Citizenship Act; or

*(c) was at the time of my birth a citizen of Malta by virtue of article 5(2) of Maltese Citizenship Act; or

*(d) would but for his death have been at the time of my birth a citizen of Malta by virtue of article 5(2) of the Maltese Citizenship Act.

Dated this ....................................... day of ..................... 20.....

..............................................................
Signature

PART II - PARTICULARS OF APPLICANT

2. Place, name of country and date of birth of applicant ....................................................
..................................................................................................................................................
and father’s/mother’s* full name .............................................................................................

3. Place and date of birth of

(a) applicant’s father or mother* ..............................................................................................

(b) applicant’s grand parent through whom claim is being made (stating

*Delete as applicable.
whether paternal or maternal) .................................................................

(c) applicant’s great-grandparent through whom claim is being made (being
the father or mother of grandparent in paragraph (b) .................................

4. Details of applicant’s claim that his father or mother was on the 20th
September, 1964 a citizen of the United Kingdom and Colonies .................
................................................................................................................
................................................................................................................

5. Details of any other citizenship ..................................................................
................................................................................................................
................................................................................................................

PART III - CERTIFICATES OF SPONSORS

6. I, ..................................................................................................................
of ..................................................................................................................
being a citizen of Malta, otherwise than by naturalization, hereby certify that
the applicant herein is a person known to me of good character, that in my
opinion he would be a suitable citizen of Malta and that the particulars in this
application are correct to the best of my knowledge and belief. I have known
him/her* for years**

Dated this ........................... day of .................. 20......

.......................................................... ..........................................................
Witness to signature                  Signature of Sponsor

..........................................................
Name in Block Letters

I.D.Number. ................................. I.D Number. .................................

(Note: The sponsor in the case of paragraph 6 must be a member of the House
of Representatives, a Judge, a Magistrate, an advocate, a notary public, a legal

*Delete as applicable.
**Applicant must have been known to sponsor for at least 2 years.)
citizenship

procurator, a medical practitioner, a public officer not below the rank of principal, a police officer not below the rank of inspector, an officer of the Armed Forces of Malta not below the rank of captain, a parish priest.)

7. I, ...........................................................................................................................
of ..............................................................................................................................

being a citizen of Malta, otherwise than by naturalization, hereby certify that the applicant herein is a person known to me and of good character, that in my opinion he/she* would be a suitable citizen of Malta and that the particulars in this application are correct to the best of my knowledge and belief. I have known him/her* for ...... years.**

Dated this ........................................ day of ..................... 20...... .

............................................................................................................................
Witness to signature ............................................................................................

.........................................................
Name in Block Letters

I.D.Number. ....................... I.D Number. ......................

(Note: The sponsor in the case of paragraph 7 need not be in the class mentioned in the note to paragraph 6.)

PART IV - DECLARATION BY APPLICANT

8. I, ..............................................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and belief the particulars stated in this application are true, and in the event of my application being granted I undertake to do all things necessary to evidence my new allegiance.

.........................................................
Signature of Applicant

*Delete as applicable.
** Applicant must have been known to sponsor for at least 2 years.
Sworn/Affirmed before me at ........................................
this ........................... day of ............................ 20...... .

..................................................
Signature
(Commissioner for Oaths)
CITIZENSHIP

FORM G

APPLICATION FOR NATURALIZATION AS A CITIZEN OF MALTA

(Under article 10(3) of the Maltese Citizenship Act)

1. I, ..........................................................................................................................
of ..........................................................................................................................
hereby apply to be naturalized as a citizen of Malta on the grounds that -

*(a) I have been a citizen of Malta by virtue of article 3/5(1)* of the Maltese
Citizenship Act and have ceased to be such a citizen after emigrating
from Malta,

*(b) I have emigrated from Malta before 21st September, 1964, and I would
have become a citizen of Malta by virtue of article 3(1) of the Maltese
Citizenship Act, but for my having ceased to be a citizen of the United
Kingdom and Colonies before that day;

and have returned to, and taken up permanent residence in, Malta.

Dated this ......................... day of ............... 20..... .

........................................................................
Signature

PART II - PARTICULARS OF APPLICANT

2. Place and date of birth of applicant .................................................................
...........................................................................................................................
and father’s full name ......................................................................................

3. Evidence of facts stated ....................................................................................
...........................................................................................................................
...........................................................................................................................
...........................................................................................................................
...........................................................................................................................
...........................................................................................................................

4. Details of any other citizenship held ..............................................................
...........................................................................................................................
...........................................................................................................................

*Delete as applicable.
PART III - CERTIFICATES OF SPONSORS

5. I, ..............................................................................................................................................
of ..............................................................................................................................................
being a citizen of Malta, otherwise than by naturalization, hereby certify that
the applicant herein is a person known to me and of good character, that in my
opinion he would be a suitable citizen of Malta and that the particulars in this
application are correct to the best of my knowledge and belief. I have known
him/her* for ..... years.**

Dated this .......................... day of .................. 20......

........................................................................... .................................
Witness to signature Signature of Sponsor

..........................................................................
Name in Block Letters

I.D.Number. ...................... I.D Number. ......................

(Note: The sponsor in the case of paragraph 5 must be a member of the House
of Representatives, a Judge, a Magistrate, an advocate, a notary public, a legal
procurator, a medical practitioner, a public officer not below the rank of
principal, a police officer not below the rank of inspector, an officer of the
Armed Forces of Malta not below the rank of captain, a parish priest.)

6. I, ..............................................................................................................................................
of ..............................................................................................................................................
being a citizen of Malta, otherwise than by naturalization, hereby certify that
the applicant herein is a person known to me and of good character, that in my
opinion he would be a suitable citizen of Malta and that the particulars in this
application are correct to the best of my knowledge and belief. I have known

*Delete as applicable.
** Applicant must have been known to sponsor for at least 2 years.
CITIZENSHIP

him/her* for ...... years.**

Dated this ..................................... day of ..................... 20...... .

....................................................................................................................  ....................................................................................................................
Witness to signature  Signature of Sponsor

....................................................................................................................
Name in Block Letters

I.D.Number. .................................  I.D Number. .................................

(Note: The sponsor in the case of paragraph 21 need not be in the class mentioned in the note to paragraph 20.)

PART IV - DECLARATION BY APPLICANT

7.  I, ........................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and belief
the particulars stated in this application are true, and in the event of my
application being granted I undertake to do all things necessary to evidence my
new allegiance.

....................................................................................................................
Signature of Applicant

Sworn/Affirmed before me at .................................
this ....................... day of ................................. 20...... .

....................................................................................................................
Signature

(Commissioner for Oaths)
FORM H

APPLICATION FOR NATURALIZATION AS A CITIZEN OF MALTA

(Under article 10(6) of the Maltese Citizenship Act)

PART I - APPLICATION

1. I, .................................................................................................................................
of .................................................................................................................................
hereby apply to be naturalized as a citizen of Malta on the grounds that:

   (a) I am and I have always been a stateless person;
   (b) *I was born in Malta;
       *my father was a citizen of Malta at the date of his birth by virtue of the
       provisions of article 3/5(2)* of the Maltese Citizenship Act;
       *my mother was at the date of her birth a citizen of Malta;
   (c) I am ordinarily resident in Malta and have been so resident for a period of
       ................................................ years, namely from .........................................
       to ............................................... .

Dated this .................................. day of ................. 20...... .

..................................................................................
Signature

PART II - PARTICULARS OF APPLICANT

2. Place, name of country and date of birth of applicant .................................
.................................................................................................................................
and father’s/mother’s full name ..............................................................................

3. Place, name of country and date of birth of applicant’s father/mother*
.................................................................................................................................

4. Evidence in regard to statements made under 1 (a) and (b), above
.................................................................................................................................
.................................................................................................................................

*Delete as applicable.
5. Particulars of all criminal proceedings taken against the applicant at any time and in any country


PART III - DECLARATION BY APPLICANT

6. I, ........................................................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and belief the particulars stated in this application are true, and in the event of my application being granted I undertake to do all things necessary to evidence my new allegiance.


Signature of Applicant

Sworn/Affirmed before me at ........................................
this .................... day of ......................... 20........ .


Signature

(Commissioner for Oaths)
FORM I

APPLICATION FOR REGISTRATION AS A CITIZEN OF MALTA

(Under article 3(2) or 5(2) of the Maltese Citizenship Act, Cap. 188)

1. I, .............................................................................................................................
   of ..........................................................................................................................
   hereby apply for registration as a citizen of Malta:
   (a) under article 3(2) of the Maltese Citizenship Act, on the grounds that I was
   born outside Malta before the 21st September, 1964 and my mother who
   become, or would, but for her death have become, a citizen of Malta in
   accordance with the provisions of article 3(1) of the said Act; or
   (b) under article 5(2) of the Maltese Citizenship Act, on the grounds that I was
   born outside Malta on or after the 21st September, 1964, and before the 1st
   August, 1989 and that at the date of my birth my mother was a citizen of Malta
   otherwise than by article 3(2) or 5(2) of the said Act.*

   Dated this ............................. day of .................. 20..... .

   ........................................................................
   Signature

PART II - PARTICULARS OF APPLICANT

2. Place and country of birth .................................................................

3. Date of birth .....................................................................................

4. Father’s full name ................................................................................

5. Father’s country and date of birth ..................................................

PART III - PARTICULARS OF APPLICANT’S MOTHER

6. Name and maiden surname ............................................................

7. Place and country of birth ............................................................

8. Date of birth ..................................................................................

9. Place and date of marriage .........................................................

*Delete as applicable.
10. Date of death (if deceased) .................................................................

11. How her Maltese citizenship was previously acquired:

   *(i)* By birth ................................................................. ; or

   *(ii)* By registration :

       Certificate No. ........................................ Date: ............... ; or

   *(iii)* By naturalization:

       Certificate No. ........................................ Date: ............... 

PART IV - DECLARATION BY APPLICANT

12. I, ........................................................................................................
    do solemnly and sincerely declare that to the best of my knowledge and belief
    the particulars stated in this application are true, and I undertake to do all
    things necessary to evidence my new allegiance.

........................................................................

    Signature of Applicant

Sworn/Affirmed before me at .........................

this ....................... day of .......................... 20...... .

........................................................................

    Signature

    (Commissioner for Oaths)

*Delete as applicable.
FORM J

APPLICATION FOR NATURALIZATION AS A CITIZEN OF MALTA OF A MINOR CHILD

(Under article 11(1) of the Maltese Citizenship Act)

(Complete either (a) or (b) of this portion of the application and delete whichever section is inappropriate)

1. * (a) The father who is a citizen of Malta:

I, .................................................................................................................................
of ............................................................................................................................
am a citizen of Malta and the father/mother* of ...........................................
.................................................................................................................................
to whom the following particulars relate. I hereby apply on behalf of my child
for his/her* naturalization as a citizen of Malta.

*(b) the tutor:

I, .................................................................................................................................
of ............................................................................................................................
am the tutor of ........................................................................................................
.................................................................................................................................
who is the son/daughter* of a citizen of Malta and to whom the following particulars relate. Being duly authorized by the Court, whose authorization is
attached, I hereby apply on behalf of ....................... for his/her* naturalization as a citizen of Malta.

Dated this ................................. day of .................. 20.....
..............................................................................

Signature

PART II - PARTICULARS OF MINOR CHILD

2. Full name ................................................................................................................

3. Place and date of birth ...........................................................................................

4. Present address ....................................................................................................

5. Occupation .......................................................................................................... 

6. Nationality at birth ..............................................................................................

*Delete as applicable.
7. Present nationality if now different .................................................................

8. If now of no nationality, give circumstances in which lost ................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

9. Father’s full name and address (if living) .........................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

10. Father’s nationality ..............................................................................................
(if dead, give nationality at time of death)

11. Mother’s full name and address (if living) .........................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

12. Mother’s nationality ..............................................................................................
(if dead, give nationality at time of death)

13. Give details of the minor child’s residence in Malta and other countries since birth:

<table>
<thead>
<tr>
<th>Malta</th>
<th>Date From</th>
<th>Date To</th>
<th>Years</th>
<th>Months</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Other Countries</td>
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<td>........</td>
<td>..........</td>
</tr>
</tbody>
</table>

14. The minor’s knowledge of Maltese/English* is Slight/Fair/Good/Excellent*.

15. Date of any previous application for naturalization ...........................................

PART III - CERTIFICATES OF SPONSORS

(Required only when minor is fourteen years old or over)

16. I, .........................................................................................................................
of .................................................................................................................................
being a citizen of Malta, otherwise than by naturalization, hereby certify that
the minor on whose behalf this application is made is a person known to me

*Delete as applicable.
and of good character, that in my opinion he would be a suitable citizen of Malta and that the particulars in this application are correct to the best of my knowledge and belief. I have known him/her* for ...... years.**

Dated this .............................. day of ........................ 20......

........................................... ...........................................
Witness to signature Signature of Sponsor

...........................................
Name in Block Letters

I.D.Number. ......................... I.D Number. .........................

(Note: The sponsor in the case of paragraph 5 must be a member of the House of Representatives, a Judge, a Magistrate, an advocate, a notary public, a legal procurator, a medical practitioner, a public officer not below the rank of principal, a police officer not below the rank of inspector, an officer of the Armed Forces of Malta not below the rank of captain, a parish priest.)

17. I, ..............................................................................................................

of ..............................................................................................................

being a citizen of Malta, otherwise than by naturalization, hereby certify that the minor on whose behalf this application is made is a person known to me and of good character, that in my opinion he would be a suitable citizen of Malta and that the particulars in this application are correct to the best of my knowledge and belief. I have known him/her* for ...... years.**

Dated this .............................. day of ........................ 20......

........................................... ...........................................
Witness to signature Signature of Sponsor

*Delete as applicable.
** Applicant must have been known to sponsor for at least 2 years.
Name in Block Letters

I.D. Number. ..........................  I.D. Number. ..........................

(Note: The sponsor in the case of this paragraph need not be in the class mentioned in the note to paragraph 16.)

PART IV - DECLARATION BY FATHER OR MOTHER OR TUTOR

7. I, ................................................................., do solemnly and sincerely declare that the particulars stated in this application are true. I undertake to inform the Minister immediately if, before the naturalization now applied for is effected, the particulars given above require amendment in consequence of any change in the circumstances of the minor child.

..................................................
Signature

Sworn/Affirmed before me at .................................
this ....................... day of ......................... 20...... .

..................................................
Signature

(Commissioner for Oaths)
FORM K
APPLICATION FOR REGISTRATION AS A CITIZEN OF MALTA
(Under article 3(3) or 5(3) of the Maltese Citizenship Act, Cap.188)

PART I - APPLICATION

1. I, ........................................................................................................................................
of ........................................................................................................................................
being a citizen of .........................................................................................................................
hereby apply to be registered as a citizen of Malta under article 3(3) or 5(3)*
on the grounds that I was born outside Malta:
(a) before the 21st September 1964*; or
(b) on or after the 21st September 1964*

and that I am the descendant in the direct line of an ascendant born in Malta
of a parent likewise born in Malta.

Dated at ................... this ............... day of ............... 20 ...........

..............................................................

Signature

PART II - PARTICULARS OF APPLICANT

2. Place, country and date of birth of applicant .............................................................

3. Father’s full name ..............................................................................................................

4. Father’s place and date of death (if deceased) ............................................................

5. Mother’s name and maiden surname ............................................................................

6. Mother’s place and date of death (if deceased) ............................................................

7. Descent of applicant from person born in Malta:

........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

PART III - DECLARATION BY APPLICANT

8. I, ........................................................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and
belief the particulars stated in this application are true, and I undertake to do
all things necessary to evidence my new allegiance.

..............................................................

Signature of Applicant

Sworn/Affirmed before me at ..................................................

this ......................... day of ............................... 20....................

..............................................................

Signature

*Delete as applicable.
FORM L
APPLICATION FOR NATURALIZATION AS A CITIZEN OF MALTA BY A PERSON MARRIED TO A CITIZEN OF MALTA
(Under article 10(9) of the Maltese Citizenship Act, Cap. 188)
PART I - APPLICATION
1. I, .................................................................................................................................
of ........................................................................................................................................ hereby apply for a certificate of naturalization as a citizen of Malta under article 10(9) of the Maltese Citizenship Act, Cap. 188 on the grounds that I am married to a citizen of Malta

Dated at ........................................... this ................... day of ................... 20 .......

.................................................................
Signature

PART II - PARTICULARS OF APPLICANT
2. Place and date of marriage .................................................................
3. Place and date of birth .................................................................
4. Father’s full name ........................................................................
5. Present nationality ........................................................................
6. Name of spouse ........................................................................
7. Place and date of birth of spouse .................................................................
8. Government Notice No. .............................................. of the .................................
9. Spouse’s present address ........................................................................

.................................................................
10. How spouse’s citizenship was acquired (by birth, descent, registration, naturalization*).

PART III - DECLARATION BY APPLICANT
11. I, ................................................................................................................................. do solemnly and sincerely declare that to the best of my knowledge and belief the particulars stated in this application are true, and I undertake to do all things necessary to evidence my new allegiance.

.................................................................
Signature of Applicant

Sworn/Affirmed before me at .................................................................
this ........................................... day of ........................................... 20 ....................

.................................................................
Signature
(Commissioner for Oaths)

*Delete as applicable.
FORM M
APPLICATION FOR REGISTRATION AS A CITIZEN OF MALTA
OF A MINOR CHILD
(Under article 5(3) of the Maltese Citizenship Act, Cap.188)

PART I - APPLICATION
(Complete either (a) or (b) of this portion of the application
and delete whichever section is inappropriate)

1. *(a) I, ...................................................................................................................
of ..............................................................................................................................
and the father/mother* of ......................................................................................
to whom the following particulars relate. I hereby apply on behalf of my
child for his/her* registration as a citizen of Malta under article 5(3) on the
grounds that:
*(b) I, ...................................................................................................................
of ..............................................................................................................................
am the tutor of ...........................................................................................................

Being duly authorized by the Court, whose authorization is attached, I
hereby apply on behalf of ........................................... for his/her* registration
as a citizen of Malta under article 5(3) on the grounds that:
he/she is the descendant in the direct line of an ascendant born in Malta of a
parent likewise born in Malta.

Dated at ...................... this .............. day of .............. 20 ............
..............................................................................................................................

Signature

PART II - PARTICULARS OF CHILD

2. Place, country and date of birth .................................................................
3. Father’s full name ...........................................................................................
4. Father’s place and date of death (if deceased) ............................................
5. Mother’s name and maiden surname ...........................................................
6. Mother’s place and date of death (if deceased) ............................................
7. Descent of child from person born in Malta:
..............................................................................................................................
..............................................................................................................................
..............................................................................................................................

PART III - DECLARATION BY FATHER OR MOTHER OR TUTOR

8. I, ..........................................................................................................................
do solemnly and sincerely declare that to the best of my knowledge and
belief the particulars stated in this application are true.

*Delete as applicable.
Sworn/Affirmed before me at ...........................................
this ................. day of ................................... 20 ......................

..................................................
Signature
Form N

Application for Naturalisation as a Citizen of Malta
(under article 10(9)(b) of the Maltese Citizenship Act, Cap. 188 and relative subsidiary legislation)

<table>
<thead>
<tr>
<th>For Official Use Only</th>
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</thead>
<tbody>
<tr>
<td>Reference Number</td>
</tr>
<tr>
<td>Agent Reference Number</td>
</tr>
<tr>
<td>Date Received</td>
</tr>
</tbody>
</table>

PLEASE READ THE DOCUMENT LIST, CHECK LIST AND GUIDELINES PRIOR TO COMPLETION

PART A

I, ...............................................................................................................................
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hereby apply to be naturalised as a citizen of Malta. I satisfy the conditions of the Malta Individual Investor Programme.

A1. The following person(s) is/are included as my dependants in the programme and I undertake to fulfil all obligations in order that they may submit applications for naturalisation as citizens of Malta:

<table>
<thead>
<tr>
<th>Name of Dependant</th>
<th>Relationship to Main Applicant and reason why individual is eligible to be considered a Dependant. Evidence of dependency must be furnished with the application submitted by spouse/dependant(s)</th>
</tr>
</thead>
<tbody>
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</tr>
</tbody>
</table>
Please tick here if more dependants are to be included, and you have provided further information in Part D or on an attached sheet.

A2. Please provide a detailed explanation of the reason(s) for seeking to obtain Maltese Citizenship

Please tick here if there is more information on Part D or on an attached sheet.

<table>
<thead>
<tr>
<th>Signature of applicant</th>
<th>Date of signature</th>
</tr>
</thead>
</table>

Part B - Particulars of Applicant

B1. Full name (as shown in passport)

B2. Place of birth

B3. Date of birth

| D | D | M | M | Y | Y | Y |

B4. Permanent residential address

B5. Identity Card reference number (where available)

B6. Current Nationality/Nationalities held

B7. Personal Details, Family Information, Education and Employment (As per duly completed MIIP Form PDFEE)
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>B8. Statement of Source of Funds and Wealth</td>
<td>(As per duly completed MIIP Form SSFW)</td>
</tr>
<tr>
<td>B9. Photograph and Signature Certificate of Applicant</td>
<td>(As per duly completed MIIP Form PSC)</td>
</tr>
<tr>
<td>B10. Medical Report and Questionnaire</td>
<td>(As per duly completed MIIP Form MRQ)</td>
</tr>
</tbody>
</table>
Part C - Declarations

Please read the declarations below and make the affirmations by deleting whichever option does not apply.

I declare that:

<p>| | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>C1.</td>
<td>I have / have never served in the armed forces of any country, or received any military training.</td>
</tr>
<tr>
<td>C2.</td>
<td>I have / have never been part of any other military and/or paramilitary organisation.</td>
</tr>
</tbody>
</table>

If you have served in the armed forces, received military training or been part of a military and/or paramilitary organisation, please give country, dates, branch of service, unit number(s), rank(s), dates and places of any active combat, reason for end of service(s) and enclose certified evidence of service(s).

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<table>
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<tbody>
<tr>
<td>C3.</td>
<td>I have / have never been arrested, charged, convicted, found guilty or been discharged of any crime(s) against the law of any country.</td>
</tr>
<tr>
<td>C4.</td>
<td>I have / have never been charged or accused of illegal activity of any nature in any country.</td>
</tr>
<tr>
<td>C5.</td>
<td>I have / have never been involved, directly or indirectly, in the financing of terrorism, or terrorist activities.</td>
</tr>
<tr>
<td>C6.</td>
<td>I have / have never been involved, directly or indirectly, with any terrorist or criminal organisation.</td>
</tr>
<tr>
<td>C7.</td>
<td>I have / have never been under investigation by any law enforcement agency or tax authority in any country, either personally or as a director of a company.</td>
</tr>
<tr>
<td>C8.</td>
<td>I have / have never been involved personally, or as a director of a company, in any bankruptcy, insolvency or liquidation.</td>
</tr>
<tr>
<td>C9.</td>
<td>I have / have never been refused admission to, or been unlawfully present in, or been deported from, any country.</td>
</tr>
<tr>
<td>C10.</td>
<td>I have / have never assisted anyone to unlawfully enter, be present, or leave, any country.</td>
</tr>
<tr>
<td>C11.</td>
<td>I have / have never been refused a residence permit in any country.</td>
</tr>
</tbody>
</table>
C12. I have / have never had an application for citizenship refused in any country.

If you have affirmed by the phrase "I have" to any statement between C3 – C12, you are required to provide a detailed explanation either in Part D of the form or on an attached sheet. It is recommended that you provide as much supporting information and documentation as possible.

C13. I am / am not considered a Politically Exposed Person ("PEP").

A PEP is any individual who is currently an office holder or has been an office holder in the past, or individuals who are or were formerly entrusted with high level public functions, such as, senior politicians, heads of state or government, senior judicial or military officials, officials of political parties and senior executives of state-owned enterprises. PEP definition also includes family members and close associates of a primary PEP.

If you are to be considered a PEP, you are required to provide a detailed explanation either in Part D of the form or on an attached sheet.

C14. I confirm / cannot confirm that my wealth has been obtained from completely legitimate sources, and is not, whether directly or indirectly, derived from the proceeds of criminal activities of any kind.

C15. I confirm / cannot confirm that I am fully compliant with my global tax obligations.

C16. I confirm / cannot confirm that I have read and understood the provisions of the Maltese Citizenship Act (Cap. 188) and the Individual Investor Programme of the Republic of Malta Regulations, 2014.

If you have opted not to confirm any statement between C14 – C16, provide a detailed explanation either in Part D of the form or on an attached sheet. It is recommended that you provide as much supporting information and documentation as possible.

Please tick here □ if there is more information on Part D or on an attached sheet.

I declare that:

*Delete as applicable
• I have read and understood all the requirements in this form and that the information supplied on or with this form, and any attachments, whether supplied directly by myself or through a third party completing the form on my behalf, are true, correct and up-to-date in every detail;
• I am aware that further to the definition of “Identity Malta Agency” under the Data Protection Section (Part E) of this form, Identity Malta Agency includes its Concessionaire and Approved Agents as defined in the Individual Investor Programme of the Republic of Malta Regulations, 2014 and any other third party representatives that they may engage as approved by the Agency;
• In the event that a letter of notification has been issued to me informing me that my application has been approved in principle, within four months of the date of such letter, I hereby declare that I will:
  (i) acquire and hold a residential immovable property in Malta having a minimum value of three hundred and fifty thousand euro (EUR350,000); or take on lease a residential immovable property in Malta for a minimum annual rent of sixteen thousand euro (EUR 16,000); and
  (ii) make such other investments in Malta to an amount of one hundred and fifty thousand euro (EUR 150,000), amongst others, in stocks, bonds, debentures, special purpose vehicles or other investment vehicles as may be identified from time to time by Identity Malta by means of a notice in the Gazette and to retain the said investments for a period of not less than five years.
• I undertake to provide proof of residence in Malta prior to being granted a certificate of naturalization as a citizen of Malta in accordance with the Individual Investor Programme of the Republic of Malta Regulations, 2014.
• I, and my dependents, are presently covered by a global health insurance policy and in the event that I am notified that my application has been approved in principle, I undertake to submit evidence of such insurance cover, and I declare that, subsequently, I and my dependents will be in a position to retain such a policy indefinitely;
• I am aware that should the Minister agree to grant me a certificate of naturalization as a citizen of Malta, prior to such naturalization I will have to take an oath of allegiance in Malta.
• In the event of my application being granted, I undertake to do all things necessary to evidence my new allegiance;
• I understand that if I have made false statements or omitted information requested on this form, my citizenship application may be refused. If it is found at a later stage that I have withheld information or provided false or incorrect information, I may be deprived of my Maltese citizenship pursuant to article 14 of the Maltese Citizenship Act (Cap. 188), and that I may also face criminal prosecution;
• I am aware that should I acquire Maltese citizenship, such acquisition (delete where not applicable):
  ° may/may not jeopardise my claim to the current citizenship(s) which I currently hold, and
  ° may/may not affect any rights emanating from the possession of such current citizenship(s);
Part D - Additional Information

Additional information and/or description of attachments

<table>
<thead>
<tr>
<th>Section number</th>
<th>Details</th>
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Part E - Data Protection

Identity Malta Agency includes its Concessionaire and Approved Agents as defined in the Individual Investor Programme of the Republic of Malta Regulations, 2014, and any other third party representatives that they may engage as approved by the Agency, in any stage of the processing of this application.

For the purposes of the Data Protection Act (Cap. 440):

Identity Malta Agency is the data controller for the processing of personal data in respect of this application.

The Concessionaire and Approved Agents and any other third party representatives engaged by them are the processors for Identity Malta Agency.

Identity Malta Agency hereby declares that all processing of personal data with respect to this application is made in accordance with the Data Protection Act, the Maltese Citizenship Act, subsidiary legislation and any other law and regulation to which Identity Malta Agency may be subject. All personal data is treated with the strictest confidence and all security safeguards will be applied.

Such personal data will be processed for the purpose of the application for naturalisation as a citizen of Malta, before and after the granting of this application. The processing operations may include the following:

(a) verifying the identity of the main applicant and/or of his/her family and/or of his/her dependants;
(b) carrying out due diligence checks both before and after the granting of this application, to comply with statutory requirements and obligations in Malta and abroad, in relation to anti-money laundering and also the countering of the financing of terrorism;
(c) disclosing personal data to government bodies and authorities as required by law; and
(d) complying with any other legal obligation to which Identity Malta Agency may be subject.

Identity Malta Agency will ensure that all rights of the data subject emanating from the Data Protection Act will be afforded to individuals concerned in this application.

PART F

Signature of main applicant
Witnessed by a Commissioner for Oaths (where an applicant resides outside Malta and the application is made in a foreign country, Commissioner for Oaths shall be deemed to be a person who under the law of that country is empowered to administer oaths.)

<table>
<thead>
<tr>
<th>Sworn/Affirmed before me at the following address:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>On the following date:</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

| Signature of Commissioner for Oaths: |
Form O
Application for Naturalisation as a Citizen of Malta (under article 10(9)(b) of the Maltese Citizenship Act, Cap. 188 and relative subsidiary legislation)

PLEASE READ THE DOCUMENT LIST, CHECK LIST AND GUIDELINES PRIOR TO COMPLETION

Part A
* Delete as applicable.

I, ...............................................................................................................................

...............................................................................................................................

I hereby apply to be naturalised as a citizen of Malta.

I am the spouse / another dependant* (as defined in the Individual Investor Programme of the Republic of Malta Regulations, 2014 and as declared in section B11 of this form) of

...............................................................................................................................

who is applying to be naturalised as a citizen of Malta as the main applicant under article 10(9)(b) of the Maltese Citizenship Act, Cap. 188 and the provisions of subsidiary legislation thereof.

Signature of applicant  Date of signature
<table>
<thead>
<tr>
<th>Part B - Particulars of Applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1. Full name</strong> (as shown in passport)</td>
</tr>
<tr>
<td><strong>B2. Place of birth</strong></td>
</tr>
<tr>
<td><strong>B4. Permanent residential address</strong></td>
</tr>
<tr>
<td><strong>B5. Identity Card reference number</strong> (where available)</td>
</tr>
<tr>
<td><strong>B7. Personal Details, Family Information, Education and Employment</strong></td>
</tr>
<tr>
<td><strong>B8. Statement of Source of Funds and Wealth</strong></td>
</tr>
<tr>
<td><strong>B9. Photograph and Signature Certificate of Applicant</strong></td>
</tr>
<tr>
<td><strong>B10. Medical Report and Questionnaire</strong></td>
</tr>
<tr>
<td><strong>B11. Dependency to main applicant</strong> (State reasons for dependency and attach supporting documentation)</td>
</tr>
</tbody>
</table>
Part C - Declarations

PLEASE READ THE DECLARATIONS BELOW AND MAKE THE AFFIRMATIONS BY DELETING WHICHEVER OPTION DOES NOT APPLY.

I declare that:

<p>| | | |</p>
<table>
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<tr>
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<tbody>
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<td>I have / have never served in the armed forces of any country, or received any military training.</td>
<td></td>
</tr>
<tr>
<td>C2.</td>
<td>I have / have never been part of any other military and/or paramilitary organisation.</td>
<td></td>
</tr>
</tbody>
</table>

If you have served in the armed forces, received military training or been part of a military and/or paramilitary organisation, please give country, dates, branch of service, unit number(s), rank(s), dates and places of any active combat, reason for end of service(s) and enclose certified evidence of service(s).

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</thead>
<tbody>
<tr>
<td>C3.</td>
<td>I have / have never been arrested, charged, convicted, found guilty or been discharged of any crime(s) against the law of any country.</td>
<td></td>
</tr>
<tr>
<td>C4.</td>
<td>I have / have never been charged or accused of illegal activity of any nature in any country.</td>
<td></td>
</tr>
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<td>C5.</td>
<td>I have / have never been involved, directly or indirectly, in the financing of terrorism, or terrorist activities.</td>
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<td>I have / have never been involved, directly or indirectly, with any terrorist or criminal organisation.</td>
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<td>I have / have never been under investigation by any law enforcement agency or tax authority in any country, either personally or as a director of a company.</td>
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<td>I have / have never been refused admission to, or been unlawfully present in, or been deported from, any country.</td>
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</tr>
<tr>
<td>C10.</td>
<td>I have / have never assisted anyone to unlawfully enter, be present, or leave, any country.</td>
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</tr>
<tr>
<td>C11.</td>
<td>I have / have never been refused a residence permit in any country.</td>
<td></td>
</tr>
<tr>
<td>C12.</td>
<td>I have / have never had an application for citizenship refused in any country.</td>
<td></td>
</tr>
</tbody>
</table>

If you have affirmed by the phrase "I have" to any statement between C3 – C12, you are required to provide a detailed explanation either in Part D of the form or on an attached sheet. It is recommended that you provide as much supporting information and documentation as possible.

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</thead>
<tbody>
<tr>
<td>C13.</td>
<td>I am / am not considered a Politically Exposed Person (&quot;PEP&quot;).</td>
<td></td>
</tr>
</tbody>
</table>
A PEP is any individual who is currently an office holder or has been an office holder in the past, or individuals who are or were formerly entrusted with high level public functions, such as, senior politicians, heads of state or government, senior judicial or military officials, officials of political parties and senior executives of state-owned enterprises. PEP definition also includes family members and close associates of a primary PEP.

If you are to be considered a PEP, you are required to provide a detailed explanation either in Part D of the form or on an attached sheet.

**C14.** I confirm / cannot confirm that my wealth has been obtained from completely legitimate sources, and is not, whether directly or indirectly, derived from the proceeds of criminal activities of any kind.

**C15.** I confirm / cannot confirm that I am fully compliant with my global tax obligations.

**C16.** I confirm / cannot confirm that I have read and understood the provisions of the Maltese Citizenship Act (Cap. 188) and the Individual Investor Programme of the Republic of Malta Regulations, 2014.

If you have opted not to confirm any statement between C14 – C16, provide a detailed explanation either in Part D of the form or on an attached sheet. It is recommended that you provide as much supporting information and documentation as possible.

Please tick here ☐ if there is more information on Part D or on an attached sheet.

I declare that:
I have read and understood all the requirements in this form and that the information supplied on or with this form, and any attachments, whether supplied directly by myself or through a third party completing the form on my behalf, are true, correct and up-to-date in every detail;

I am aware that further to the definition of "Identity Malta Agency" under the Data Protection Section (Part E) of this form, Identity Malta Agency includes its Concessionaire and Approved Agents as defined in the Individual Investor Programme of the Republic of Malta Regulations, 2014 and any other third party representatives that they may engage as approved by the Agency;

I am aware that should the Minister agree to grant me a certificate of naturalization as a citizen of Malta, prior to such naturalization I will have to take an oath of allegiance in Malta.

In the event of my application being granted, I undertake to do all things necessary to evidence my new allegiance;

I understand that if I have made false statements or omitted information requested on this form, my citizenship application may be refused. If it is found at a later stage that I have withheld information or provided false or incorrect information, I may be deprived of my Maltese citizenship pursuant to article 14 of the Maltese Citizenship Act (Cap. 188), and that I may also face criminal prosecution;

I am aware that should I acquire Maltese citizenship, such acquisition:

- may / may not* jeopardise my claim to the current citizenship(s) which I currently hold, and
- may / may not* affect any rights emanating from the possession of such current citizenship(s);

I understand that Identity Malta Agency, reserves the right to verify any personal information relating to me, my family and/or other dependants, and may carry out due diligence exercises for the purposes of this application both prior to and following the granting of such application;

I am also aware that in the course of such verification process, Identity Malta Agency may:

- disclose to third parties any personal information about me and/or my family and/or my dependants; and
- obtain from public sources, government bodies and/or private agencies further information, credit reports, criminal records and/or any other kind of records deemed necessary, about me and/or my family and/or my dependants,

and to this effect I hereby release Identity Malta Agency from any responsibility and/or liability.
Part D - Additional Information
Additional information and/or description of attachments

<table>
<thead>
<tr>
<th>Section number</th>
<th>Details</th>
</tr>
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Part E - Data Protection

Identity Malta Agency includes its Concessionaire and Approved Agents as defined in the Individual Investor Programme of the Republic of Malta Regulations, 2014, and any other third party representatives that they may engage as approved by the Agency, in any stage of the processing of this application.

For the purposes of the Data Protection Act (Cap. 440):

Identity Malta Agency is the data controller for the processing of personal data in respect of this application.

The Concessionaire and Approved Agents and any other third party representatives engaged by them are the processors for Identity Malta Agency.

Identity Malta Agency hereby declares that all processing of personal data with respect to this application is made in accordance with the Data Protection Act, the Maltese Citizenship Act, subsidiary legislation and any other law and regulation to which Identity Malta Agency may be subject. All personal data is treated with the strictest confidence and all security safeguards will be applied.

Such personal data will be processed for the purpose of the application for naturalisation as a citizen of Malta, before and after the granting of this application. The processing operations may include the following:

(a) verifying the identity of the main applicant and/or of his/her family and/or of his/her dependants;
(b) carrying out due diligence checks both before and after the granting of this application, to comply with statutory requirements and obligations in Malta and abroad, in relation to anti-money laundering and also countering of the financing of terrorism;
(c) disclosing personal data to government bodies and authorities as required by law; and
(d) complying with any other legal obligation to which Identity Malta Agency may be subject.

Identity Malta Agency will ensure that all rights of the data subject emanating from the Data Protection Act will be afforded to individuals concerned in this application.

| Signature of spouse/adult dependant* (delete as applicable) |

Witnessed by a Commissioner for Oaths (Where an applicant resides outside Malta and the application is made in a foreign country, Commissioner for Oaths shall be deemed to be a person who under the law of that country is empowered to administer oaths.)

| Sworn/Affirmed before me at the following address: |

| On the following date: |

| Y | Y | Y | Y |

| Signature of Commissioner for Oaths: |
Form P
Application for Naturalisation as a Citizen of Malta (under article 10(9)(b) of the Maltese Citizenship Act, Cap. 188 and relative subsidiary legislation)

Part A

A1. Please complete either (a) or (b) as applicable

(a) I, .......................................................................................................................... (name of)
...............................................................................................................................
..........................................................................................................................(address)
being the main applicant / spouse of the main applicant* applying for Maltese citizenship under the Individual Investor Programme of the Republic of Malta, the father / mother* of
..........................................................................................................................(dependant) to whom the following particulars relate, hereby apply on behalf of my child for his / her* naturalisation as a citizen of Malta.

(b) I, .......................................................................................................................... (name of)
...............................................................................................................................
..........................................................................................................................(address)
am the legal guardian of ......................................................................................................
..........................................................................................................................(dependant),
who is the son / daughter* of .................................................................(name) and such parent is a person who qualifies or who would, but for his death or other particular individual circumstances, have qualified to apply for naturalisation as a citizen of Malta under the Individual Investor Programme of the Republic of Malta and to whom the following particulars relate. Being duly authorised to submit such application as per attached authorisation, I hereby apply on behalf of
..........................................................................................................................(dependant) for his / her* naturalisation as a citizen of Malta.

Signature
Date of signature
A2. Please complete (c), (d) or (e), if applicable

| (c) | I, ........................................................................................................................ (name of) |
|     | ...............................................................................................................................
|     | ...............................................................................................................................
|     |...............................................................................................................................(address) |

Give my consent for ........................................................................................................... (main applicant) to submit an application for naturalisation as a citizen of Malta on behalf of my minor son / daughter* ............................................................................................................................... (dependant).

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<tr>
<th>Signature of other parent</th>
<th>Date of signature</th>
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(d) I attach herewith consent / relevant documentation* authorising me to submit an application for naturalisation as a citizen of Malta on behalf of my minor son / daughter* ............................................................................................................................... (dependant).

<table>
<thead>
<tr>
<th>Signature of applicant</th>
<th>Date of signature</th>
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</table>

(e) I attach herewith documentation authorising me to submit an application for naturalisation as a citizen of Malta on behalf of ...............................................................................................................................(dependant).

<table>
<thead>
<tr>
<th>Signature of applicant</th>
<th>Date of signature</th>
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</table>
### Part B - Particulars of Minor

<table>
<thead>
<tr>
<th>B1. Full name (as shown in passport)</th>
<th>B2. Place of birth</th>
<th>B3. Date of birth</th>
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<tbody>
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<td><em>D</em> <em>B</em> <em>M</em> <em>M</em> <em>Y</em> <em>Y</em> <em>Y</em></td>
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<tr>
<th>B4. Permanent residential address</th>
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<tr>
<th>B5. Identity Card reference number (where available)</th>
<th>B6. Current Nationality/Nationalities held</th>
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<tr>
<th>B7. Personal Details, Family Information, Education and Employment</th>
<th>As per duly completed MiIP Form PDFEE</th>
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<tr>
<th>B8. Photograph and Signature Certificate of minor on whose behalf application is being submitted</th>
<th>As per duly completed MiIP Form PSC</th>
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<tr>
<th>B9. Medical Report and Questionnaire</th>
<th>As per duly completed MiIP Form MRQ</th>
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<tr>
<th>B10. Evidence showing relationship to Main Applicant</th>
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</table>

As per attached birth certificate/marriage certificate/other relevant documentation (delete as applicable)
**Part C - Declarations**

*Please read the declarations below and make the affirmations by deleting whichever option does not apply if the minor on whose behalf you are submitting the application is over 12 years of age.*

I declare that:

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<tr>
<td>C1.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> served in the armed forces of any country, or received any military training.</td>
</tr>
<tr>
<td>C2.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been part of any other military and/or paramilitary organisation.</td>
</tr>
</tbody>
</table>

*If the minor on whose behalf the application is being submitted has served in the armed forces, received military training or been part of a military and/or paramilitary organisation, please give country, dates, branch of service, unit number(s), rank(s), dates and places of any active combat, reason for end of service(s) and enclose certified evidence of service(s).*

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<tr>
<td>C3.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been arrested, charged, convicted, found guilty or been discharged of any crime(s) against the law of any country.</td>
</tr>
<tr>
<td>C4.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been charged or accused of illegal activity of any nature in any country.</td>
</tr>
<tr>
<td>C5.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been involved, directly or indirectly, in the financing of terrorism, or terrorist activities.</td>
</tr>
<tr>
<td>C6.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been involved, directly or indirectly, with any terrorist or criminal organisation.</td>
</tr>
<tr>
<td>C7.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been under investigation by any law enforcement agency or tax authority in any country, either personally or as a director of a company.</td>
</tr>
<tr>
<td>C8.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been involved personally, or as a director of a company, in any bankruptcy, insolvency or liquidation.</td>
</tr>
<tr>
<td>C9.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been refused admission to, or been unlawfully present in, or been deported from, any country.</td>
</tr>
<tr>
<td>C10.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> assisted anyone to unlawfully enter, be present, or leave, any country.</td>
</tr>
<tr>
<td>C11.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> been refused a residence permit in any country.</td>
</tr>
<tr>
<td>C12.</td>
<td>The minor on whose behalf the application is being submitted <strong>has / have never</strong> had an application for citizenship refused in any country.</td>
</tr>
</tbody>
</table>

*If you have affirmed by the word "has" to any statement between C3 – C12, you are required to provide a detailed explanation either in Part D of the form or on an attached sheet. It is recommended that you provide as much supporting information and documentation as possible.*

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<tr>
<td>C13.</td>
<td>The minor on whose behalf the application is being submitted <strong>is / is not</strong> considered a Politically Exposed Person (&quot;PEP&quot;).</td>
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*A PEP is any individual who is currently an office holder or has been an office holder in the past, or individuals who are or were formerly entrusted with high level public functions, such as, senior politicians, heads of state or government, senior judicial or military officials, officials of political parties and senior executives of state-owned enterprises. PEP definition also includes family members and close associates of a primary PEP.*
I declare that:

*Delete as applicable

- I have read and understood all the requirements in this form and that the information supplied on or with this form, and any attachments, whether supplied directly by myself or through a third party completing the form on my behalf, are true, correct and up-to-date in every detail;
- I am aware that further to the definition of "Identity Malta Agency" under the Data Protection Section (Part E) of this form, Identity Malta Agency includes its Concessionaire and Approved Agents as defined in the Individual Investor Programme of the Republic of Malta Regulations, 2014 and any other third party representatives that they may engage as approved by the Agency;
- I understand that if I have made false statements or omitted information requested on this form, this citizenship application may be refused. If it is found later that I have provided false or incorrect information, the minor on whose behalf the application is being submitted may be deprived of his Maltese citizenship pursuant to article 14 of the Maltese Citizenship Act (Cap. 188), and I may also face criminal prosecution;
- I am aware that should the minor on whose behalf the application is being submitted acquire Maltese citizenship, such acquisition:
  - may/may not* jeopardise his claim to the current citizenship(s) which he/she currently holds, and
  - may/may not* affect any rights emanating from the possession of such current citizenship(s);
- I understand that Identity Malta Agency, reserves the right to verify any personal information relating to me, my family, other dependants and/or the minor on whose behalf this application is being submitted, and may carry out due diligence exercises for the purposes of this application both prior to and following the granting of such application;
- I am also aware that in the course of such verification process, Identity Malta Agency may:
  - disclose to third parties any personal information about me and/or my family and/or my dependants and the minor on whose behalf the application is being submitted; and
  - obtain from public sources, government bodies and/or private agencies further information, credit reports, criminal records and/or any other kind of records deemed necessary, about me, my family and/or my dependants and/or the minor on whose behalf the application is being submitted,
and to this effect I hereby release Identity Malta Agency from any responsibility and/or liability.
- that I undertake to inform the Minister immediately if, before the naturalisation now applied for is effected, the particulars given above require amendment in consequence of any change in the circumstances of the minor child.
**Part D - Additional Information**

Additional information and/or description of attachments

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<th>Section number</th>
<th>Details</th>
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(b) carrying out due diligence checks both before and after the granting of this application, to comply with statutory requirements and obligations in Malta and abroad, in relation to anti-money laundering and also countering of the financing of terrorism;

(c) disclosing personal data to government bodies and authorities as required by law; and

(d) complying with any other legal obligation to which Identity Malta Agency may be subject.

Identity Malta Agency will ensure that all rights of the data subject emanating from the Data Protection Act will be afforded to individuals concerned in this application.
Part F

Signature of Parent / Legal Guardian* (delete as applicable)

Witnessed by a Commissioner for Oaths (Where an applicant resides outside Malta and the application is made in a foreign country, Commissioner for Oaths shall be deemed to be a person who under the law of that country is empowered to administer oaths.)

Sworn/Affirmed before me at the following address:

On the following date:

DD MM YYYY

Signature of Commissioner for Oaths:
SECOND SCHEDULE
(Regulation 4)

APPLICATION FORM

FORM D1

DECLARATION OF RENUNCIATION OF CITIZENSHIP OF MALTA

(Under article 13(1) of the Maltese Citizenship Act)

I, ........................................................................................................................................
of ............................................................................................................................................
born at ............................................ on the .................................................................
day of ........................................................., 19 .... being a citizen of Malta
and also a citizen of ................................................................................................................... and
being of full age and capacity, do hereby renounce my citizenship of Malta.

.........................................................
(Signature of declarant)

Sworn/Affirmed before me at ..........................................

day of ................................................. 20...... .

.........................................................
Signature

(Commissioner for Oaths)
THIRD SCHEDULE
(Regulation 7)

Amended by:
L.N. 16 of 1993;
L.N. 232 of 1997;
Substituted by:

FEES

Matters in which fee may be taken

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<td>€46.59</td>
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<td>€11.65</td>
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DEPRIVATION OF MALTESE CITIZENSHIP  
(COMMITTEE OF INQUIRY)  

SUBSIDIARY LEGISLATION 188.02  
DEPRIVATION OF MALTESE CITIZENSHIP  
(COMMITTEE OF INQUIRY) RULES  

5th April, 1991

LEGAL NOTICE 40 of 1991.

1. The title of these Rules is Deprivation of Maltese Citizenship (Committee of Inquiry) Rules.

2. (1) The Committee of Inquiry, hereinafter in these Rules to be called "the Committee", shall be composed of:

   (a) a Chairman to be appointed by the Minister responsible for matters relating to Maltese citizenship from among the Judges of the Superior Courts or persons who have held the office of Judge of the Superior Courts;

   (b) two members appointed by the said Minister, one of whom shall be a public officer, and the other a person who is or has been qualified to be appointed Magistrate in Malta.

   (2) The Chairman and the appointed members of the Committee shall hold office for a term of three years and under such conditions as may be set out in their letter of appointment.

   (3) The Chairman and the other members of the Committee shall, on the expiration of the term of their office, be eligible to be reappointed.

   (4) When any vacancy in the Committee occurs, the Minister responsible for matters relating to Maltese citizenship shall, as soon as practicable, appoint another person to fill the vacancy.

   (5) A member of the Committee may be removed from office by the Prime Minister, but such member may be removed only for proved inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

   (6) Save as otherwise expressly provided by these Rules, the Committee may make its own rules and otherwise regulate its own procedure.

3. (1) The Committee shall be convened by the Chairman as from time to time required.

   (2) The Committee shall inquire into any case referred to it by the Minister responsible for matters relating to Maltese citizenship after an application for an inquiry is made by an aggrieved person in the Form A set out in the Schedule.

4. (1) The Chairman and the members of the Committee shall, before entering upon those duties, take and subscribe an oath.
in the Form B set out in the Schedule.

(2) Such oath shall be taken before, and shall be deposited with, the Attorney General.

5. (1) The Chairman and any member of the Committee may abstain from sitting or may be challenged for any of the causes mentioned in article 734 of the Code of Organization and Civil Procedure.

(2) Any question regarding a cause of abstention or challenge, and any question regarding procedure, shall be decided by the Chairman of the Committee.

6. (1) The Minister responsible for matters relating to Maltese citizenship shall appoint a Secretary to the Committee and such other officers as may be necessary from time to time and shall determine their duties.

(2) The Secretary of the Committee shall have, mutatis mutandis, all such powers and duties as are by the Code of Organization and Civil Procedure vested in or imposed on the Registrar of the Superior Courts.

7. (1) The Committee shall, unless otherwise provided under these Rules, have all the powers as are by the Inquiries Act enjoyed by a board appointed under that Act.

(2) Summons for attendance of witnesses shall be in the Form C set out in the Schedule, and shall be signed by the Chairman or Secretary of the Committee.

8. The Committee shall hold its sittings in one of the halls of the Courts of Justice in Valletta.

(2) The Expatriates and Nationality Division of the Office of the Prime Minister shall be the Registry of the Committee, and therein shall be deposited and kept the records of the Committee, as well as any written communication or submission to be filed with the Secretary thereof.

9. (1) Any notice, warrant or order issued by the Committee shall be signed by the Chairman and counter-signed by the Secretary.

(2) The Committee may, at any time, allow any amendment to be made in the application for the purpose of making it clearer.

(3) Notice of the day and time appointed for the hearing of the inquiry shall be given to the aggrieved person in the Form D set out in the Schedule.

(4) The aggrieved person may be assisted during the hearing of the inquiry by a legal practitioner.

10. (1) Save as otherwise provided in these Rules, the decisions of the Committee shall be taken by a majority vote.

(2) The decisions of the Committee shall be in writing and shall be signed by the Chairman and by the Secretary, and the
original shall be kept by the Secretary of the Committee together with the complete record of the proceedings of each inquiry.
SCHEDULE

(Rule 3)

Form A

MALTESE CITIZENSHIP ACT

INQUIRY INTO AN ORDER OF DEPRIVATION OF
MALTESE CITIZENSHIP

Name and address of aggrieved person: ..............................................................

To the Secretary,
Committee of Inquiry.

The aggrieved person respectfully sheweth:

That by Notice dated the .................................................................
issued by the Minister responsible for matters relating to Maltese citizenship,

the aggrieved person has been informed that ...........................................

................................................................................................................

That, in the submission of the aggrieved person, the said grounds are not valid for
the following reasons:
................................................................................................................
................................................................................................................
................................................................................................................

Wherefore the aggrieved person prays that the aforesaid Notice be revoked.

........................................
Signature of the
aggrieved person.

Filed by ................................. on the .................................

........................................
Signature of the Secretary
of the Committee of Inquiry
Form B
(Rule 4)
MALTESE CITIZENSHIP ACT
FORM OF OATH TO BE TAKEN BY THE CHAIRMAN OR A MEMBER OF THE COMMITTEE OF INQUIRY

I, .................................................................................................. having been appointed to be Chairman/Member of the Committee of Inquiry to investigate Notices of Orders of Deprivation of Maltese Citizenship, for the period ........................................... to ........................................................., do swear/solemnly affirm that I will faithfully, fully, impartially and to the best of my ability discharge the trust and perform the duties devolving upon me by virtue of the said appointment.

So help me God.

........................................................................
Chairman/Member

Form C
(Rule 7)
MALTESE CITIZENSHIP ACT
SUMMONS TO WITNESSES

To .......................................................... (name of person summoned and residence)
You are hereby summoned to appear before .............................................................
at the Courts of Justice, Valletta, on .................................................................
(date and time) and to give evidence respecting ..................................................
(the matter of the inquiry).

Given under my hand this ................. day of ..............................

................................................
(Signature of Chairman)
DEPRIVATION OF MALTESE CITIZENSHIP
(COMMITTEE OF INQUIRY)

Form D
(Rule 9)
MALTESE CITIZENSHIP ACT
NOTICE OF THE DAY AND THE TIME FOR THE HEARING BY THE
COMMITTEE OF INQUIRY

To: ........................................

........................................

The Committee of Inquiry will hear on .................................................................
the ............................................................... at ............................................. the case
entered by .................................................. in respect of ..........................................
..........................................................(the matter of the inquiry).

Date ........................................

........................................
Chairman of the Committee
of Inquiry

........................................
Secretary of the Committee
of Inquiry
1. The title of these regulations is the Individual Investor Programme of the Republic of Malta Regulations.

2. In these regulations, unless the context otherwise requires -

   "Act" means the Maltese Citizenship Act;

   "applicant" means the person who applies or on whose behalf it is being applied for his naturalisation as a citizen of Malta under the individual investor programme either as a main applicant or as a dependant;

   "application" means an application made under these regulations;

   "application requirements" means the formal and substantial requirements which each applicant must meet, as set forth in these regulations;

   "authenticated translation" means a translation done by either a professional translator who is officially accredited to a court of law, a government agency, an international organization, or similar official institution, or if done in a country where there are no official accredited translators a translation, done by a company whose role or business is professional translation;

   "certified copy" means a photocopy of an original document certified by a duly licensed lawyer, or notary public, a Maltese consular or diplomatic officer or a senior officer of the concessionaire to be a true copy of the original;

   "concessionaire" means the entity awarded with the public service concession contract to design, implement, administer, operate and promote the programme, or any subsidiary of that entity, duly authorized by the public service concession contract;

   "contribution" means a contribution paid under these regulations seventy per cent of which shall be paid to the National Development and Social Fund, in accordance with these regulations;

   "dependant" means:

   
   (a) the spouse of the main applicant in a monogamous marriage or in another relationship having the same or a similar status to marriage, unless the Minister authorises otherwise on a case by case basis;

   (b) a child, including an adopted child, of the main
applicant or of his spouse who is less than eighteen years of age;

(c) a child of the main applicant or of his spouse who is between the age of eighteen and twenty-six years and who is not married and who proves, to the satisfaction of the Minister, that he is wholly maintained by the main applicant;

(d) a parent or grandparent of the main applicant or of his spouse above the age of fifty-five years who prove to the satisfaction of the Minister that they are wholly maintained or supported by the main applicant and form part of the household of the main applicant; or

(e) a child of the main applicant or of the spouse of the main applicant who is at least eighteen years of age, is physically or mentally challenged, and who is living with and is fully supported by the main applicant:

Provided that such person has the capacity to take an oath of allegiance;

"Identity Malta" means the agency established by the Identity Malta Agency (Establishment) Order;

"Approved Agent" means an audit firm, a law firm, a financial advisory firm, an intermediary firm or any other person or body which in all cases has been authorised to act as an authorised intermediary firm by Identity Malta for the purposes of these regulations;

"main applicant" means the person who, either as a single applicant or as the head of a family, undertakes to make a contribution for the purposes of these regulations and signs the relevant agreements and undertakings on behalf of his dependants;

"Minister" has the same meaning as assigned to it in the Act;

"National Development and Social Fund" means the fund established by the Government of Malta to receive the contributions;

"non-refundable payment" means the portion of the contribution paid up front at the time of submission of the application;

"police certificate" means a certificate of conduct, report or statement from a national law enforcement authority or other public authority in charge of criminal records on the status of an applicant’s criminal record;

"programme" means the Individual Investor Programme of the Republic of Malta;

"public service concession" means the public service concession awarded to the concessionaire to design, implement, administer, operate and promote the programme.

3. (1) There is hereby established a programme, to be known as the "Individual Investor Programme of the Republic of Malta", which shall allow for the grant of citizenship by a certificate of naturalization to foreign individuals and their families who
contribute to the economic development of Malta, as provided in these regulations.

(2) The operation of the programme shall be carried out by the concessionaire.

(3) Approved Agents shall be licensed by Identity Malta after carrying out a due diligence process in their regard. They shall be entitled to introduce prospective applicants to Identity Malta.

(4) Approved Agents shall pay an annual licence fee and shall abide by the conditions of their licence.

(5) Identity Malta shall be entitled to withdraw a licence issued to an Approved Agent if, after due investigation, it is satisfied that:

(a) the Approved Agent has acted in an unethical or an unprofessional manner and has substantially prejudiced the programme; or

(b) the Approved Agent has committed a serious breach of guidelines, codes of conduct or codes of ethics issued by Identity Malta from time to time and made specifically applicable to Approved Agents.

4. (1) The qualifications and general requirements for a person to be a main applicant for citizenship under the programme shall be that any such person:

(a) is at least eighteen years of age;

(b) proposes to make a contribution as determined in the Schedule;

(c) meets the application requirements;

(d) commits himself to provide proof of residence in Malta, and to provide proof of title to residential property in Malta in accordance with these regulations;

(e) commits himself to invest, amongst others, in stocks, bonds, debentures, special purpose vehicles or to make other investments as provided from time to time by Identity Malta by means of a notice in the Gazette:

Provided that beneficiaries of the Global Residence Programme provided for under the Income Tax Act shall be allowed to apply for the Individual Investor Programme subject to satisfying all the additional eligibility requirements of the Programme.

(2) Applications shall be made on the forms prescribed under the Citizenship Regulations and shall be accompanied by the prescribed due diligence and bank charges fees, as specified in the Schedule, and by the originals or certified copies of the following:

(a) a certificate in the form prescribed by Identity Malta from a reputable health system to the satisfaction of Identity Malta that the main applicant and his dependants are not suffering from any contagious disease and that they are otherwise in good health;
(b) a police certificate or certificates, which may however also be submitted subsequently at a later date but in any case before the application is approved;

(c) evidence, through due diligence processes, that the main applicant and his dependants are fit and proper persons to hold Maltese citizenship;

(d) an undertaking to remit the total of the required contribution, less the non-refundable payment already made at the time of submission of the application, of the amount as specified in the Schedule, when called to do so by Identity Malta;

(e) an undertaking to purchase or take on lease immovable residential property in Malta in accordance with these regulations;

(f) an undertaking to make such other investments in Malta in accordance with these regulations; and

(g) any other document as may be required from time to time by notice issued by Identity Malta.

(3) All applications shall be submitted by the main applicant to Identity Malta either through Approved Agents or the concessionaire.

(4) Application forms and other accompanying documents shall be completed in English or, if the original language of the document is not English, the document shall be accompanied by an authenticated translation.

(5) The main applicant shall, with the exception of the spouse, provide an affidavit of support for each dependant who is over eighteen years old.

(6) Each application form shall be completed by the applicant and if the applicant is unable to complete the forms personally, it must be completed by a legal representative and signed by each and every applicant.

(7) The following conditions shall apply to dependants who are below the age of eighteen years:

(a) the forms shall be signed by both parents on behalf of the dependant; and

(b) in the case where one parent has sole custody of a dependant, or another person has legal guardianship of a dependant, the appropriate legal documentation shall be provided to demonstrate that sole custody or guardianship was awarded by a court of law or other relevant authority.

(8) If an applicant makes a false statement or omits information requested, the application may be declined solely on that basis.

(9) Applications shall only be accepted and processed on condition that all forms are properly completed, dated and signed, and accompanied by all required documents, fees and undertakings, including, but not limited to, an undertaking to remit the required
contribution as called upon by Identity Malta following the approval in principle of the application:

Provided that police certificates may be submitted at a later date provided that they are submitted before the application is approved.

5. In addition to the qualifications and general requirements as set out in regulation 4, the minimum eligibility criteria for an application under the programme, for the applicant and any of his dependants, shall be as follows:

(a) a proper background verification of the applicant and his dependants over the age of twelve years, as the case may be;

(b) a police certificate issued by the Malta police as well as a police certificate issued by the competent authorities in the country of origin and in the country or countries of residence where the applicant has resided for a period of more than six months during the last ten years, or in exceptional cases where it is proved to the satisfaction of Identity Malta that such a certificate is not obtainable, a sworn affidavit made by the applicant and any dependants, declaring a clean criminal record;

(c) the applicant and, or any of his dependants are not individuals indicted before an International Criminal Court or who appeared at any time before an International Criminal Court, whether such persons have been found guilty or otherwise by such Court;

(d) the applicant and, or any of his dependants, shall not be persons listed with the International Criminal Police Organization (INTERPOL) at the time of application;

(e) the applicant and, or any of his dependants is not, or may not be a potential threat to national security, public policy or public health;

(f) the applicant and, or any of his dependants shall not be an individual who, at any time, had pending charges related to crimes of terrorism, money laundering, funding of terrorism, crimes against humanity, war crimes, or crimes that infringe upon such Protection of Human Rights and Fundamental Freedoms as established by the European Convention on Human Rights, or who has been found guilty of any such crimes;

(g) the applicant and, or any of his dependants shall not be an individual who has been found guilty or has charges brought against him regarding any of the criminal offences that disturb the good order of the family, which criminal offences include, without limitation, the following:

(i) paedophilia,
(ii) defilement of minors,
(iii) rape,
(iv) violent indecent assault,
(v) inducing persons under age to prostitution, and
(vi) abduction;

(h) the applicant and, or any of his dependants shall not be an individual who at any time was found guilty, or, at the time of the application, is being interrogated and suspected, or has criminal charges brought against him for any criminal offence, other than an involuntary offence, punishable with more than one year imprisonment. The applicant shall attach with his application a sworn declaration before a commissioner for oaths, lawyer or notary public that the said information that he has provided is true and correct;

(i) where a document is required to be produced under these regulations in support of an application:

   (i) such document must be an original document or if not an original, it must be a certified copy; and

   (ii) the person certifying the document shall provide the full name, capacity in which the person is acting, residential or business address, telephone number and email address.

6. An applicant who -

   (a) provides false information on his application;
   (b) has a criminal record;
   (c) is the subject of a criminal investigation;
   (d) is a potential national security threat to Malta;
   (e) is, or is likely to be, involved in any activity likely to cause disrepute to Malta; or
   (f) has been denied a visa to a country with which Malta has visa-free travel arrangements and has not subsequently obtained a visa to the country that issued the denial,

shall not be approved for citizenship under the programme, unless Identity Malta is satisfied that the applicant is still worthy of being considered for approval due to special circumstances to be demonstrated by the applicant. In such case, Identity Malta shall issue a reasoned opinion as to why such applicant should still be considered for approval and shall refer such application to the Minister, who will have the sole authority to grant such approval.

7. (1) Every application shall be presented to, and examined by, Identity Malta, either directly or through the concessionaire.

   (2) Identity Malta shall either directly or through the concessionaire cause due diligence checks to be performed by one or more internationally recognized specialised due diligence agents.
which in any case are to be approved by Identity Malta, in respect of every applicant. Such due diligence checks shall be of a four tier nature. Identity Malta shall in any case be responsible for the proper carrying out of due diligence tests and shall also carry out due diligence tests independently of the concessionaire.

(3) Where a lawyer or notary public certifies a document to be a true copy of the original, that document must be authenticated by -

(a) an apostille in accordance with the provisions of the Hague Convention of 5th October 1961 Abolishing the Requirement for Legalisation for Foreign Public Documents, in the case of a jurisdiction that is a party to that Convention; or

(b) a validation of the certificate of the lawyer or notary public by the appropriate government department in the case of a jurisdiction that is not a party to that Convention; or

(c) a validation of the certificate by a Maltese consular or diplomatic representation in the case of a jurisdiction that is not a party to that Convention.

(4) Within ninety days of the presentation of an application for citizenship, Identity Malta shall verify that:

(a) the application has been certified as formally correct;

(b) all relevant information provided by the applicant has been verified by one or more independent due diligence agents;

(c) the background of the applicant and his dependants, if applicable, has been verified by one or more independent due diligence agents;

(d) all required due diligence fees, passport fees and bank charges fees as well as a non-refundable payment, as defined in the Schedule, towards the contribution has been paid;

(e) the source of all funds have been verified; and

(f) an appropriate risk weighting has been carried out.

(5) Within thirty days from the date of the completion of the verification referred to above, Identity Malta shall further review the application submitted to it, shall carry out appropriate further background checks, if it deems necessary, and shall notify the concessionaire and, where applicable, the Approved Agent in writing, in accordance with the Minister’s instructions, that the application has been -

(a) approved in principle;

(b) refused; or

(c) delayed for the cause that it is still being processed:

Provided that where an application is approved in principle in accordance with paragraph (a), Identity Malta shall issue a Letter of Approval in Principle to the main applicant informing him that
he must provide:

(a) evidence that the main applicant and dependants are covered by a global health insurance policy and they declare that they are in a position to retain such a policy indefinitely;

(b) a written undertaking to either:
   (i) acquire and hold a residential immovable property in Malta having a minimum value of three hundred and fifty thousand euro (EUR 350,000); or
   (ii) take on lease a residential immovable property in Malta for a minimum annual rent of sixteen thousand euro (EUR 16,000):

Provided further that the proof required under this sub-regulation shall be provided within four months from the issue of the Letter of Approval in Principle by the submission of a contract of purchase or of lease of the said property to Identity Malta. Property purchased or taken on lease for the purposes of these regulations may not, after having been purchased or taken on lease be let or sublet but such property shall be retained by the applicant for a period of at least five years from the date of purchase or lease:

Provided further that when the applicant has purchased or taken on lease a residential immovable property in accordance with these regulations, he shall be entitled to dispose of the property or terminate the leasehold, provided that he proves to the satisfaction of Identity Malta that he has purchased or taken on lease another residential property in Malta which satisfies all the requisites set by these regulations and other relevant regulations which may be in force from time to time and commits himself to retain the said property until the expiration of the period of five years established in this sub-regulation.

(6) The main applicant shall provide a written undertaking that he will make such other investments in Malta to an amount of one hundred and fifty thousand euro (EUR 150,000), amongst others, in stocks, bonds, debentures, special purpose vehicles or other investment vehicles as may be identified from time to time by Identity Malta by means of a notice in the Gazette and to retain the said investments for a period of not less than five years:

Provided that the proof required under this sub-regulation shall be provided within four months from the issue of the Letter of Approval in Principle by the submission to Identity Malta of proof that the said investments have been made.

(7) A personal interview with an applicant shall not be a mandatory requirement but may be recommended by the concessionaire and, or considered by Identity Malta, on a case by case basis. The procedures applicable to personal interviews shall be determined by Identity Malta.

(8) Within five days of the approval in principle under sub-regulation (5)(a) the main applicant shall be instructed to remit the contribution less the non-refundable payment already received, to
be received within twenty days from such instruction. Upon receipt of the contribution less the non-refundable payment, Identity Malta shall, provided that the conditions of the Letter of Approval in Principle have been satisfied, notify the Minister to issue a certificate of naturalisation.

(9) Within two years but not less than six months from the date of application and subject to a verification that the conditions of the Letter of Approval in Principle have been satisfied as provided in sub-regulation (8), the Minister shall, provided that the conditions of these regulations are still satisfied, issue a certificate of naturalisation in the name of the applicant subject to sub-regulation (11).

(10) Within five days of issuance of such certificates, the concessionaire shall complete the necessary disbursements of the contribution to Identity Malta and shall retain the amount due to the concessionaire. Upon receipt of the contribution Identity Malta shall pay seventy per cent of the same into the National Development and Social Fund and shall pay the remainder into the Consolidated Fund.

(11) The certificate of naturalisation shall only become effective and be made available to the applicant, and the application for a passport may only proceed, after the oath of allegiance has been taken by the applicant.

(12) No certificate of naturalisation under these regulations shall be issued unless the main applicant provides proof that he has been a resident of Malta for a period of at least twelve months preceding the day of the issuing of the certificate of naturalisation.

8. (1) The due diligence fees and bank charges fees are not refundable.

(2) The contribution balance, once received in Malta, shall not be refundable after the letter of approval in principle has been issued.

(3) Passport fees are refundable in the case where passports have not been applied for.

9. No person, except Identity Malta, the concessionaire or an Approved Agent shall for gain and without being duly authorised, advertise, publish or disseminate publicly through any means whatsoever any information relating to the programme:

Provided that Approved Agents shall only advertise, publish or disseminate publicly any information relating to the programme in strict compliance with guidelines issued from time to time by Identity Malta.

10. Without prejudice to the provisions of article 14 of the Act, the Minister shall in all cases be deemed to have reserved the right to deprive a person of his Maltese citizenship granted under the programme if an applicant who has been granted citizenship fails to comply with any requirement to lease, purchase and retain property in Malta or to make and retain investments in Malta, as established
by these regulations or has become a threat to national security or is involved in conduct which is seriously prejudicial to the vital interests of Malta. In such cases the procedure for deprivation of citizenship stipulated in article 14 of the Act and in any regulations made under the Act in respect of such deprivation shall *mutatis mutandis* apply.

11. Identity Malta shall, from time to time, issue procedural guidelines to specify the operational aspects and interpretations under these regulations.

12. The number of successful main applicants, excluding dependants, shall not exceed one thousand and eight hundred for the whole duration of the programme.

13. (1) There shall be a fund to be known as the National Development and Social Fund into which seventy per cent of contributions received by Identity Malta under the programme shall be paid.

   (2) The funds received by the National Development and Social Fund shall be used in the public interest *inter alia* for the advancement of education, research, innovation, social purposes, justice and the rule of law, employment initiatives, the environment and public health.

   (3) The Fund shall have a separate legal personality and may also subsequently be established as a foundation, a trust or in the form of another legal person as may be determined by the Minister from time to time.

   (4) The Fund shall be administered by a Board of Governors consisting of five members of whom one shall be the Chairman and another shall be the Deputy Chairman who shall be appointed by the Prime Minister.

   (5) The Board of Governors of the Fund shall be responsible to ensure the highest level of governance of the Fund and that the funds held in the Fund are used solely for the said intended purposes.

   (6) The Fund shall publish its audited accounts on an annual basis and shall report to the Minister responsible for Finance on its activities as the said Minister may require but in any case not less than once a year. The audited accounts and the annual report of the Fund shall be laid on the table of the House of Representatives by the Minister responsible for Finance.

   (7) The Fund shall be subject to being audited by the Auditor General.

14. (1) The programme shall be operated with the utmost consideration of the international obligations of Malta and of preserving Malta’s good reputation as a worthy, transparent and reputable financial centre and a jurisdiction for international business.

   (2) The Minister shall every year publish in the Gazette the names of all persons who during the previous twelve calendar
months were granted Maltese citizenship by registration or naturalization including those persons who were granted Maltese citizenship under the programme.

15. (1) The fees set out in the Schedule shall be paid for the matters therein respectively specified.

(2) The provisions of the Fees Ordinance shall apply to the fees set out in the Schedule as if they were fees prescribed under the said Ordinance.
SCHEDULE

Contribution Requirements and Schedule of Fees

1. Contribution Requirements

The following contributions shall be required as a minimum to qualify for citizenship under the programme:

(a) main applicant: EUR 650,000 (six hundred and fifty thousand euro), of which a non-refundable payment of EUR 10,000 (ten thousand euro) shall be remitted as a non-refundable deposit prior to submission of the application;

(b) spouse: EUR 25,000 (twenty five thousand euro);

(c) for each and every child below 18 years of age: EUR 25,000 (twenty five thousand euro);

(d) for each and every unmarried child between 18 years of age and 26 years of age: EUR 50,000 (fifty thousand euro);

(e) for each and every dependant parent above 55 years of age: EUR 50,000 (fifty thousand euro).

2. Schedule of Fees

The following fees shall be payable under each application:

(1) Due diligence fees:

(a) main applicant: EUR 7,500 (seven thousand five hundred euro);

(b) spouse: EUR 5,000 (five thousand euro);

(c) for each and every child aged between 13 years of age and 18 years of age: EUR 3,000 (three thousand euro);

(d) for each and every dependant unmarried child between 18 years of age and 26 years of age, EUR 5,000 (five thousand euro);

(e) for each and every dependant parent above 55 years of age: EUR 5,000 (five thousand euro).

(2) Passport fees and bank charges fees:

(a) Passport: EUR 500 (five hundred euro) per person;

(b) Bank charges: EUR 200 (two hundred euro) per application.

(3) The contribution requirements and the fees stipulated in this Schedule shall apply in respect of applications and grants of citizenship under the programme notwithstanding the provisions of any other regulations.
CRIMINAL CODE

CHAPTER 9
CRIMINAL CODE

To amend and consolidate the Penal Laws and the Laws of Criminal Procedure.

10th June, 1854


of an offence under this article, when the offence is committed by
any ascendant or tutor.

248. Whosoever, having found a newly born child, shall fail to
provide for its immediate safety, or, having assumed the care
thereof, shall not, within twenty-four hours, deliver the same, or
give information thereof, to the Executive Police, shall, on
conviction, be liable, in the first case, to imprisonment for a term
from four to six months, and, in the second case, to imprisonment
for a term from one to three months:

Provided that in either case, the court may, in its discretion,
award a fine (multa or ammenda) in lieu of imprisonment.

GENERAL PROVISION APPLICABLE TO OFFENCES
UNDER SUB-TITLES I TO V, BOTH INCLUSIVE,
AND SUB-TITLE VIII

248 Bis. The provisions of article 208B(2) and (2A) shall apply
to any person found guilty of any offence under Sub-titles I to V,
both inclusive, and Sub-title VIII when committed against a person
under age.

Sub-title VIII BIS

OF THE TRAFFIC OF PERSONS

248A. (1) Whosoever, by any means mentioned in subarticle
(2), traffics a person of age for the purpose of exploiting that
person in:

(a) the production of goods or provision of services; or
(b) slavery or practices similar to slavery; or
(c) servitude or forced labour; or
(d) activities associated with begging; or
(e) any other unlawful activities not specifically provided
for elsewhere under this sub-title,

shall, on conviction, be liable to the punishment of imprisonment from
four to twelve years.

For the purposes of this subarticle exploitation includes
requiring a person to produce goods and provide services under
conditions and in circumstances which infringe labour standards
governing working conditions, salaries and health and safety.

(2) The means referred to in subarticle (1) are the following:

(a) violence or threats, including abduction;
(b) deceit or fraud;
(c) misuse of authority, influence or pressure;
(d) the giving or receiving of payments or benefits to achieve the consent of the person having control over another person;

(e) abuse of power or of a position of vulnerability:
   Provided that in this paragraph "position of vulnerability" means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.

(3) The consent of a victim of trafficking to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in sub-article (2) has been used.

248B. Whosoever, by any means mentioned in article 248A(2), trafficks a person of age for the purpose of exploiting that person in prostitution or in pornographic performances or in the production of pornographic material or other forms of sexual exploitation shall, on conviction, be liable to the punishment laid down in article 248A(1).

248C. Whosoever, by any means mentioned in article 248A(2), trafficks a person of age for the purpose of exploiting that person in the removal of any organ of the body shall on conviction be liable to the punishment of imprisonment for a term from six to twelve years.

248D. Whosoever trafficks a minor for any of the purposes mentioned in articles 248A to 248C, both inclusive, shall, on conviction be liable to the same punishment laid down in those articles, as the case may be, even if none of the means mentioned in article 248A(2) has been used:
   Provided that where any of the means mentioned in article 248A(2) has been used in the commission of the offence under this article the punishment for the offence shall be increased by one degree.

248DA. Whosoever, for any purpose referred to in articles 248A to 248C, both inclusive, acting as an intermediary for the adoption of a child improperly induces the consent of any person whose consent is required for the adoption shall on conviction be liable to the punishment laid down in article 248D.

248DB. Whosoever shall practice or engage in child labour for any of the purposes mentioned in article 248A shall, on conviction, be liable to the punishment established under article 248D.

For the purposes of this article child labour shall include the coercion of a person under age into forced or compulsory labour for any purpose whatsoever including the forced or compulsory recruitment of minors to take part in armed conflict.
248E. (1) In this sub-title, the phrase "trafficks a person" or "trafficks a minor" means the recruitment, transportation, sale or transfer of a person, or of a minor, as the case may be, including harbouring and subsequent reception and exchange or transfer of control over that person, or minor, and includes any behaviour which facilitates the entry into, transit through, residence in or exit from the territory of any country for any of the purposes mentioned in the preceding articles of this sub-title, as the case may be.

(2) Where any of the offences in articles 248A to 248D, both inclusive -

(a) is accompanied by violence, or has caused grievous bodily harm; or
(b) generates proceeds exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87); or
(c) is committed with the involvement of a criminal organisation within the meaning of article 83A(1); or
(d) is committed by a public officer or servant in the course of the exercise of his duties; or
(e) is committed against a vulnerable person within the meaning of article 208A(2); or
(f) when the offender willfully or recklessly endangered the life of the person trafficked,

the punishment otherwise due shall be increased by one degree.

(3) The provisions of article 121D shall apply mutatis mutandis to the offences under this sub-title, so however that the punishment to which the body corporate shall be liable under this subarticle shall be the payment of a fine (multa) of not less than eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) and not more than one million and eight hundred and sixty-three thousand and four hundred and ninety-eight euro and seventy-two cents (1,863,498.72).

(4) Where the person found guilty of any of the offences under this sub-title -

(a) was at the time of the commission of the offence an employee or otherwise in the service of a body corporate, and
(b) the commission of the offence was for the benefit, in part or in whole, of that body corporate, and
(c) the commission of the offence was rendered possible because of the lack of supervision or control by a person referred to in article 121D,

the person found guilty as aforesaid shall be deemed to be vested with the legal representation of the same body corporate which shall be liable to the payment of a fine (multa) of not less than ten thousand euro (€10,000) and not exceeding two million euro (€2,000,000).

(4A) Whenever the offence is committed for the benefit, in part...
or in whole, of a body corporate by a person who has the power of representation of the body corporate, authority to take decisions on behalf of the body corporate, or authority to exercise control of the body corporate, the legal person may be subject to:

(i) exclusion from entitlement to public benefits or aid;
(ii) temporary or permanent disqualification from the practice of commercial activities;
(iii) placing under judicial supervision;
(iv) judicial winding up; or
(v) temporary or permanent closure of establishments.

(5) Without prejudice to the provisions of article 5, the Maltese courts shall also have jurisdiction over the said offences where:

(a) only part of the action giving execution to the offence took place in Malta; or

(b) the offender is a Maltese national or permanent resident in Malta or the offence was committed for the benefit of a body corporate registered in Malta; or

(c) the offence was committed against a Maltese national or permanent resident in Malta.

(6) The offences committed under this sub-title shall not be liable to punishment if the offender was compelled thereto by another person where the provisions of article 33(b) do not apply.

(7) The provisions of article 14 of the Immigration Act shall not apply until the lapse of thirty days from the date that the Principal Immigration Officer has reasonable grounds to believe that the person concerned is a victim of any of the offences under this sub-title.

(8) The provisions of articles 13 and 14 of the White Slave Traffic (Suppression) Ordinance, shall, mutatis mutandis, apply.

(9) Notwithstanding any other provision of this Code or of any other law, the period of prescription shall run from the day on which the victim attains the age of majority.

248F (1) Whosoever aids, abets or instigates any offence under this sub-title shall be guilty of an offence and shall be liable on conviction to the punishment laid down for the offence aided, abetted or instigated.

(2) Any person who engages in or makes use of the services or labour as referred to in articles 248A to 248D, both inclusive, in the knowledge that the person providing the service has been trafficked within the meaning of article 248E(1), shall be guilty of an offence and liable, on conviction, to imprisonment for a term of eighteen months to five years.

248G. The provisions of articles 21 and 28A of this Code and the provisions of the Probation Act shall not apply in respect of any person convicted of an offence under this sub-title.