

SUBSIDIARY LEGISLATION 217.18**MALTA RESIDENCE AND VISA PROGRAMME
REGULATIONS**

25th August, 2015

LEGAL NOTICE 288 of 2015.

- 1.** The title of these regulations is the Malta Residence and Visa Programme Regulations. Citation.
- 2.** For the purposes of these regulations, unless the context otherwise requires - Interpretation.
- "Act" means the Immigration Act; Cap. 217.
- "application" means an application filed in terms of regulation 5;
- "appointed day" means the date on which Identity Malta shall determine in writing that an individual is issued a certificate under these regulations;
- "approved agent and, or accredited person" means a person who is in possession of a warrant to practice as an advocate under the Code of Organization and Civil Procedure, a person who holds a warrant to practice as a legal procurator under the Code of Organization and Civil Procedure, a person who has been appointed notary public in accordance with the provisions of the Notarial Profession and Notarial Archives Act, a person who holds a warrant to practice the profession of accountant under the Accountancy Profession Act, a person who is a member of the Malta Institute of Taxation or a person who is a member of Malta Institute of Accountants or a person who is a member of the Institute of Management; Cap. 12.
Cap. 55.
Cap. 281.
- Provided that a person that is not an individual, having at least 75% (directly or indirectly) of its shareholders, partners or other members, as the case may be, who are persons in possession of the above-mentioned warrants or being a member of the above-mentioned institutes, shall also be eligible to be an approved agent and, or accredited person;
- "beneficiary" means a third-country national who has been issued a certificate in terms of these regulations;
- "certified copy" means a photocopy of an original document certified by a duly licensed lawyer, or notary public, a Maltese consular or diplomatic officer, Identity Malta or a senior officer of an authority appointed by Identity Malta in terms of regulation 11(2);
- "contribution" means a contribution of thirty thousand euro (€30,000) paid in accordance with these regulations;
- "dependant" in relation to another person 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 not economically active and is principally dependant on the said person;
- (d) a parent or grandparent of the main applicant or of his spouse who proves to the satisfaction of the Minister that he is not economically active and is principally dependant on the said person; or
- (e) a child of the main applicant or of the spouse of the main applicant who is at least eighteen years of age, and who has been certified by a recognized medical professional as having a disability in terms of the Equal Opportunities (Persons with Disability) Act and who is living with, and is fully supported by, the main applicant;
- Cap. 413. and in any case is not a beneficiary under the Residents Scheme Regulations, the High Net Worth Individuals - EU / EEA / Swiss Nationals Rules, the Malta Retirement Programme Rules, the Residence Programme Rules, the Qualifying Employment in Innovation and Creativity Rules or the Highly Qualified Persons Rules, and resides with the beneficiary in the qualifying property;
- S.L. 123.79 "EEA" means the members of the European Union, Iceland,
S.L. 123.129 Norway and Liechtenstein;
- S.L. 123.134
- S.L. 123.160
- S.L. 123.141
- S.L. 123.126
- S.L. 497.07 "Identity Malta" means the agency established by the Identity Malta Agency (Establishment) Order;
- "long-term resident" means:
- (a) a person who has long-term resident status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations;
- (b) a person who applies for long-term resident status under the Status of Long-term Residents (Third Country Nationals) Regulations;
- S.L. 217.05
- S.L. 217.05
- "Ministers" means the Minister responsible for Finance and the Minister responsible for the Economy, Investment and Small Business;
- "minor" is a person who has not yet attained the age of eighteen years;
- "non-refundable administrative fee" means the portion of the contribution paid up front at the time of submission of the application;
- "not economically active" means a person who is not working and not seeking work or not available for work;

"property" means any immovable property situated in Malta or Gozo and any right over such property;

"public interest" includes the interests of public safety, the protection of public order, national security, territorial integrity, public health or morals;

"qualifying investment" means an investment in a form determined from time to time by Identity Malta having an initial value of two hundred and fifty thousand euro (€250,000);

"qualifying property" means a qualifying owned property or a qualifying rented property, as the case may be;

"qualifying owned property" means an immovable property purchased at a consideration of not less than:

- (a) subject to the provisions of paragraph (b), three hundred twenty thousand euro (€320,000) for a property situated in Malta; or
- (b) two hundred and seventy thousand euro (€270,000) for a property situated in Gozo or in the south of Malta:

Provided that an immovable property purchased before the date of coming into force of these regulations for a consideration which is less than the amounts indicated in paragraphs (a) or (b) above shall be considered to be "qualifying owned property" insofar as the value of such immovable property, as declared on the date of application by the applicant, is not less than the amounts indicated in paragraphs (a) or (b) above as supported by a separate and independent architect valuation including architect's plan which are delivered to Identity Malta upon application:

Provided further that Identity Malta, or any officer authorised by it in writing, architect or surveyor shall have full and free access to the qualifying owned property to the extent that such access is likely to assist him in determining the value of the said property;

"qualifying rented property" means a property taken on lease for a rent of not less than:

- (a) subject to paragraph (b) below, twelve thousand euro (€12,000) per annum for a property situated in Malta; or
- (b) ten thousand euro (€10,000) per annum for a property situated in Gozo or in the south of Malta;

"registered approved agent and, or registered accredited person" means a person or entity who has satisfied the criteria set by Identity Malta and which in any case is already registered as an authorised registered mandatory with the Inland Revenue Department or is already registered as an approved agent and, or registered as an accredited person with Identity Malta under any other scheme or regulation;

"south of Malta" means the areas within set boundaries as designated in the Second Schedule to the Local Councils Act of the

"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 European Union and the Treaty on the Functioning of the European Union:

Provided that, for the purposes of these regulations, EEA nationals and Swiss nationals shall not be considered to be third-country nationals.

Certificate by
Identity Malta.

Cap. 217.

Rights conferred
by Certificate

3. For the purposes of these regulations and under the powers conferred upon it by the delegation issued by the Minister responsible for immigration in terms of article 26 of the Immigration Act, Identity Malta may issue a certificate which shall be deemed to constitute a permit issued in terms of article 7 of the Immigration Act, to individuals who satisfy the conditions established under these regulations.

4. A certificate issued by Identity Malta in accordance with these regulations shall entitle the beneficiary of such a certificate and his registered dependants to reside, settle or stay indefinitely in Malta, provided that:

- (a) the certificate shall be monitored annually for the first five years from its issue, and every five years thereafter, and it shall be considered to have been *ipso iure* withdrawn as soon as the beneficiary thereof infringes any of the provisions of these regulations; and
- (b) the said certificate shall not by itself entitle the holder thereof to any other rights mentioned in the Immigration Regulations.

S.L. 217.04

Application.

5. (1) An individual, as duly represented by a registered approved agent and, or registered accredited person may apply to Identity Malta for the issuance of a certificate under these regulations, in such form as Identity Malta may require and by paying a non-refundable administrative fee of five thousand five hundred euro (€5,500).

(2) Where it is established that the individual mentioned in sub-regulation (1) qualifies as a beneficiary, Identity Malta shall determine in writing that such individual is to be issued a certificate under these regulations.

(3) Upon such determination in writing in terms of sub-regulation (2) and prior to the issuance of the certificate, the applicant, as duly represented by a registered approved agent and, or registered accredited person, shall pay the contribution less the non-refundable administrative fee already paid upon presentation of the application, and present the necessary title to a qualifying property, and a certificate to a qualifying investment, and any other document as may be required from time to time by notice issued by Identity Malta:

Provided that no certificate shall be issued to the applicant even in the case that Identity Malta has issued its approval in principle in terms of these regulations, unless the conditions above referred to are satisfied to the full satisfaction of Identity Malta.

(4) Following the death of a beneficiary, in exceptional circumstances, Identity Malta shall be empowered to determine that the certificate issued in terms of sub-regulation (3) shall be issued to a dependant of that deceased beneficiary. Such certificate shall be issued once the said dependant provides proof to Identity Malta that all the requirements of these regulations are satisfied in such manner as Identity Malta may determine.

6. (1) The qualifications and general requirements for a person to be issued a certificate under these regulations shall be that such person:

Qualifications and general requirements.

- (a) is at least eighteen years of age;
- (b) meets the application requirements;
- (c) commits himself to provide proof of title to a qualifying property in Malta in accordance with these regulations;
- (d) commits himself to invest in a qualifying investment;
- (e) commits himself to pay in full the contribution in terms of these regulations:

Provided that beneficiaries of the Global Residence Programme shall be allowed to apply for the issuance of a certificate in terms of these regulations subject to satisfying all the additional eligibility requirements of these regulations.

(2) Applications shall be accompanied by the prescribed non-refundable administrative fee and by the originals or certified copies of the following:

- (a) 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; in certain circumstances Identity Malta may accept that such certificates are submitted at a later date but in any case before the application is approved in principle;
- (b) evidence, through a 'know your customer' basis, due diligence processes, carried out by the registered approved agent and, or registered accredited person that there is no *a priori* evidence that the main applicant and his dependants are not fit and proper persons;
- (c) an undertaking to purchase or lease an immovable property in Malta which property qualifies as a qualifying property in accordance with these regulations;
- (d) an undertaking, if necessary, to make such other

investments in Malta in accordance with these regulations;

- (e) an undertaking to remit the total of the required contribution, less the non-refundable administrative fee already made at the time of submission of the application;
- (f) a certificate as requested 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 and will not be, in terms of the medical review carried out by Identity Malta, of an unreasonable burden on the national health system; and
- (g) any other document as may be required from time to time by notice issued by Identity Malta.

(3) 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.

(4) The applicant shall provide an affidavit of the support for each dependant who is over eighteen years old.

(5) The following conditions apply to minor dependants:

- (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 the sole custody or guardianship was awarded by a court of law or other relevant authority.

(6) If an applicant makes a false statement or omits information requested, the application may be declined solely on that basis.

Eligibility.

7. In addition to the qualifications and general requirements as set out in regulation 6, the minimum eligibility criteria for an application under these regulations, 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, are not 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 is not 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 is 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 two years 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.

- (j) the application is not deemed to be against public interest.

Further conditions to be satisfied.
S.L. 217.04

8. For the purposes of these regulations, and without prejudice to any rights and duties emanating from the Immigration Regulations and unless any individual is already in possession of a residence document or a residence permit issued under the Immigration Regulations, an individual shall be deemed to be a beneficiary of a certificate issued under these regulations only if he, as from the appointed day and throughout the entire duration and persistence of the certificate, proves to the satisfaction of Identity Malta that:

S.L. 123.79
S.L. 123.129
S.L. 123.134
S.L. 123.160
S.L. 123.141
S.L. 123.126

- (a) he is a third country national and is not a Maltese, EEA or Swiss national;
- (b) he is not a person who benefits under the Residents Scheme Regulations, the High Net Worth Individuals - EU / EEA / Swiss Nationals Rules, the Malta Retirement Programme Rules, the Residence Programme Rules, the Qualifying Employment in Innovation and Creativity Rules or the Highly Qualified Persons Rules;
- (c) he holds a qualifying property for a minimum five (5) year period from the date of issuing of certificate;
- (d) he holds a qualifying investment for a minimum period of five (5) years from the date of issuing of certificate;
- (e) without prejudice to any other provision of this regulation, he is in receipt of stable and regular resources which are sufficient to maintain himself and his dependants without recourse to the social assistance system of Malta;
- (f) he is, and his dependants are, in possession of a valid travel document;
- (g) he is in possession of sickness insurance in respect of all risks across the whole of the European Union normally covered for Maltese nationals for himself and his dependants;
- (h) he provides an affidavit declaring that from the date of the application referred to in regulation 5 onwards he has either an annual income of not less than hundred thousand euro (€100,000) arising outside Malta or has in his possession a capital of not less than five hundred thousand euro (€500,000).

Cessation of certificate.

9. (1) A beneficiary shall, with effect from the date of issuing of certificate, cease to benefit from a certificate issued under these regulations:

- (a) if the individual becomes a Maltese, EEA or Swiss national;

- (b) if, at any time, after the appointed day, such individual becomes a long-term resident;
 - (c) if, at any time, after the appointed day, such individual does not satisfy the conditions set out in regulation 8;
 - (d) if, at any time after the appointed day, such individual no longer remains eligible in terms of regulation 7;
 - (e) if the individual's stay is not in the public interest;
 - (f) if, at any time after the appointed day such individual stays legally and continuously in Malta for a period of four years or more; or
 - (g) if, at any time, after the appointed day, such individual does not fulfil any commitment contemplated in these regulations, including in particular a commitment referred to in regulation 6.
- (2) (a) An individual who ceases to benefit from a certificate issued in terms of these regulations for any of the reasons specified in sub-regulation (1) shall notify Identity Malta of such event by not later than four weeks from the date when he becomes aware of such event. This notification shall be made on such form as may be required by Identity Malta.
- (b) Where such notification is not made within the time specified, the person responsible for such event shall be charged an administrative penalty of fifteen thousand euro (€15,000).
- (3) An individual shall, with immediate effect, cease to benefit from a certificate issued in terms of these regulations if he notifies Identity Malta of his intention not to remain a beneficiary in terms of these regulations on such form as Identity Malta may require.
- (4) The Ministers shall jointly have the power to condone any failure to satisfy any one of the conditions in sub-regulation (1) if:
- (a) such failure was due to unforeseen circumstances which are beyond the control of the individual;
 - (b) such individual notifies the Ministers of such failure; and
 - (c) such individual has exercised his best efforts to remedy the failure.

10. (1) For the purpose of ascertaining an individual's entitlement to rights acquired under these regulations and ensuring the proper application of these regulation, Identity Malta may require that individual or the relevant registered approved agent and, or registered accredited person to produce, within the time indicated by Identity Malta in that request, such information and documents as Identity Malta may consider necessary, including certifications and declarations.

Request for information.

(2) Notwithstanding any other provision in any law, Identity Malta may exchange information that is in its possession concerning an individual -

- S.L. 217.05
- (a) making an application in terms of regulation 5;
 - (b) that is a beneficiary; or
 - (c) that has long-term residence status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations.

Such information may be exchanged for the purposes of these regulations and for the purposes of the long-term residence status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations.

S.L. 217.05

Identity Malta's discretion.

11. (1) Any decision, determination or verification to be made by Identity Malta under these regulations shall be made at Identity Malta's absolute discretion and any such decision, determination or verification shall be final and shall not be subject to an appeal.

(2) Identity Malta shall have the right to delegate any of its functions under these regulations, save for those arising under regulation 3, to any other authority duly constituted under any other law capable of exercising such functions.

Registered approved agent and, or registered accredited person.

12. (1) An individual shall authorise a person who is a registered approved agent and, or registered accredited person to act on his behalf in respect of all applications, correspondence, submissions, filings, declarations and notifications contemplated under these regulations. All such acts are to be filed by the said registered approved agent and, or registered accredited person.

(2) The authorisation referred to in sub-regulation (1) shall be made in such form as Identity Malta may require.

(3) Unless Identity Malta specifically authorizes otherwise in writing, a person may not authorise more than one approved agent and, or accredited person.

(4) Registration as a registered approved agent and, or registered accredited person with Identity Malta shall be made by filling in and delivering to Identity Malta such form as the Identity Malta may require.

(5) Registration as a registered approved agent and, or registered accredited person in terms of these regulations shall be subject to such terms and conditions as Identity Malta may from time to time determine.

(6) Acceptance of registration in terms of these regulations shall be notified by Identity Malta to the person requesting such registration.

(7) When a person who has been registered with Identity Malta desires to cancel such registration, he shall make a request in such form as Identity Malta may require.

(8) Where a registered approved agent and, or registered accredited person repeatedly fails to carry out a function required under these regulations, Identity Malta shall have the right to terminate his appointment as an approved agent and, or registered accredited person.

(9) Identity Malta may, by notice issued from time to time,

prescribe that a portion of the contribution paid by an applicant in terms of these regulations be paid to the approved agent and, or accredited person appointed by the applicant:

Provided that any such portion shall at no time exceed ten percent of the contribution payable in terms of these regulations.

SCHEDULE

(Regulation 2)

Localities for the purposes of the definition of "south of Malta"

Birzebbugia

Cospicua

Fgura

Għaxaq

Gudja

Kalkara

Luqa

Marsascula

Marsaxlokk

Mqabba

Paola

Qrendi

Safi

Santa Luċija

Senglea

Sigġiewi

Tarxien

Vittoriosa

Xgħajra

Żabbar

Żejtun

Żurrieq
