

**SUBSIDIARY LEGISLATION 281.04**  
**ACCOUNTING PROFESSION**  
**(PROVISION OF ACCOUNTANCY SERVICES**  
**ON A TEMPORARY AND OCCASIONAL BASIS)**  
**REGULATIONS**

5th March, 2010

*LEGAL NOTICE 112 of 2010, as amended by Legal Notice 270 of 2016.*

1. The title of these regulations is the Accountancy Profession (Provision of Accountancy Services on a Temporary and Occasional Basis) Regulations. Title.

2. The objective of these regulations is to provide for rules specific to the provision of accountancy services, as herein defined, pursuant to Part II of the Recognition of Professional Qualifications Regulations and to Title II of the Directive, as herein defined, and these regulations shall be interpreted and applied accordingly. Objective.]  
S.L. 451.01

3. (1) In these regulations, unless the context otherwise requires: Interpretation.

"accountancy services" means the provision of work and, or the rendering of services comparable to those listed in regulation 3(2) of the Regulations;

"the Act" means the Accountancy Profession Act; Cap. 281.

"Directive" means Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications;

"the Regulations" means the Accountancy Profession Regulations issued in terms of the Act; and S.L. 281.01

"temporary service provider" means any individual, other than a warrant holder, seeking to provide accountancy services on a temporary and occasional basis in Malta.

(2) Unless the context otherwise requires, terms used in these regulations which are not defined herein shall have the meaning assigned to them in the Act.

4. (1) A temporary service provider shall not be prohibited from providing accountancy services on a temporary and occasional basis in Malta, unless he: Conditions relating to the provision of accountancy services on a temporary and occasional basis.

(a) is legally established in any Member State for the purpose of performing accountancy services:

Provided that where the provision of accountancy services, or the education and training leading to the accountancy service, is not regulated in the Member State in which the temporary service provider is legally established, the temporary service provider

Amended by:  
L.N. 270 of 2016.

shall not be prohibited from providing accountancy services on a temporary and occasional basis in Malta if he has provided accountancy services in the Member State in which the temporary service provider is legally established for at least one year during the ten years preceding the provision of accountancy services on a temporary and occasional basis in Malta;

- (b) is covered by adequate indemnity insurance in terms of the Act or regulations issued in terms of the Act;
- (c) has the necessary knowledge of the language or languages necessary for providing accountancy services in Malta; and
- (d) has submitted to the Board a written declaration and the documentation provided for in regulation 6.

(2) The Board shall ensure that any controls on the language competency of a temporary service provider are limited to the knowledge of one official language of Malta, and only carried out after recognition of the professional qualifications of the temporary service provider. Controls may be imposed by the Board in cases where there is a serious and concrete doubt about the sufficiency of the temporary service provider's language knowledge in respect of the accountancy services the temporary service provider intends to pursue. Any language controls shall be proportionate to the activity to be pursued, and shall be subject to appeal in accordance with article 15B of the Act.

Determination of temporary and occasional services.

5. (1) The determination of whether accountancy services are being provided on a temporary and occasional basis in Malta, shall be assessed by the Board by reference to all the particular circumstances of the relevant accountancy services including, but not limited to, the duration, frequency, regularity and continuity of the accountancy service to be provided in Malta.

(2) Where the Board determines that accountancy services shall not be, or are not being, provided on a temporary and occasional basis by a temporary service provider in Malta, such temporary service provider shall, upon notification by the Board of such a determination, be prohibited from providing such accountancy services unless in possession of a warrant issued in terms of the Act:

Provided that a decision of the Board taken pursuant to this sub-regulation shall be subject to appeal in terms of article 15B of the Act.

(3) Where a temporary service provider, notwithstanding being notified by the Board in terms of sub-regulation (2), provides accountancy services in Malta, without being in possession of a warrant, he shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not more than six thousand euro (€6,000).

Written declaration.  
Amended by:  
L.N. 270 of 2016.

6. (1) A temporary service provider shall, prior to the date of commencement of the provision of accountancy services in Malta, submit to the Board, by electronic means or otherwise, a written

declaration in such form as may be determined by the Board from time to time and made available on the official website of the Board, setting out the following information:

- (a) the full name of the temporary service provider;
- (b) the full legal address of the temporary service provider;
- (c) details of the accountancy services to be provided in Malta, including details of the client in Malta;
- (d) if applicable, any register in which the temporary service provider is registered, his registration number, or equivalent means of identification contained in that register;
- (e) a declaration that the temporary service provider is covered by adequate indemnity insurance in terms of the Act or regulations made under the Act;
- (f) the details of any professional association or similar body with which the temporary service provider is registered or a member thereof; and
- (g) the professional title or designation used, or in the event that such title or designation does not exist, the formal qualification of the temporary service provider and the Member State in which it was awarded.

(2) In addition to the written declaration mentioned in sub-regulation (1), the temporary service provider shall submit to the Board the following documents:

- (a) evidence of the nationality of the temporary service provider;
- (b) an attestation from the relevant body in the Member State where the temporary service provider is legally established certifying that the temporary service provider is so legally established in that Member State for the purpose of pursuing accountancy services and the temporary service provider is not prohibited from providing accountancy services, even temporarily, in the Member State where he is legally established at the time of delivery of the written declaration;
- (c) in the situation mentioned in the proviso to regulation 4(a), any means of proof that the temporary service provider has provided accountancy services for at least one year during the previous ten years;
- (d) attestation that the temporary service provider is covered by adequate indemnity insurance in terms of the Act or regulations made under the Act; and
- (e) evidence of the professional qualification of the temporary service provider.

(3) Where, due to a material change in the status of the temporary service provider, the written declaration and, or the documents being submitted together with such written declaration no longer reflect such status, the temporary service provider shall

submit to the Board an updated written declaration and, or the documents reflecting such change in status of the temporary service provider within fifteen days from the date when such change occurred.

(4) Where a temporary service provider wishes to provide accountancy services in the calendar year immediately following the year in which a written declaration has been submitted, or resubmitted as the case may be, such written declaration shall be renewed and resubmitted to the Board:

Provided that, in any case, such written declaration shall be renewed and resubmitted prior to the commencement of the provision of accountancy services in Malta in that particular year.

Access to provide accountancy services.  
Added by:  
L.N. 270 of 2016.

**6A.** Submission of the required declaration by a temporary service provider in accordance with regulation 6 shall entitle that temporary service provider to have access to provide accountancy services in the entire territory of Malta.

Professional title or designation.

**7.** (1) A temporary service provider shall, when providing accountancy services in Malta on a temporary and occasional basis, be entitled to use the professional title or designation used when providing accountancy services in the Member State in which he is legally established, followed by the name and address of the awarding establishment or examining board.

(2) The professional title or designation shall be indicated in the official language or one of the official languages of the Member State where the temporary service provider is legally established and indicated in such a way as to avoid confusion with the designation used in Malta.

(3) Where no professional title or designation is used in the Member State in which the temporary service provider is legally established, the temporary service provider shall indicate his formal qualification in the official language or one of the official languages of that Member State.

Information to be given to recipients.

**8.** A temporary service provider shall, when providing accountancy services in Malta on a temporary and occasional basis, furnish the recipient of the accountancy services with the following information:

- (a) if applicable, any register in which the temporary service provider is registered, his registration number, or equivalent means of identification contained in that register;
- (b) the details of any professional association or similar body with which the temporary service provider is registered or a member thereof;
- (c) where the provision of accountancy services is subject to authorisation in the Member State in which the temporary service provider is legally established, the details of the competent supervisory authority or public oversight body;

- (d) the professional title or designation used, or in the event that such title or designation does not exist, the formal qualification of the temporary service provider and the Member State in which it was awarded;
- (e) the VAT identification number referred to in Council Directive 77/388/EEC of the temporary service provider; and
- (f) the details of the indemnity insurance cover maintained by the temporary service provider in terms of the Act.

9. (1) The Board shall cooperate with the competent authorities of the Member States in which temporary service providers are legally established to carry out the responsibilities arising from these regulations and the Recognition of Professional Qualifications Regulations.

Functions of the Board.

S.L. 451.01.

(2) The Board shall provide the competent authorities of the Member States in which temporary service providers are legally established with the information necessary to ensure that complaints against a temporary service provider made by clients in Malta are correctly pursued. The Board shall further ensure that the recipients are informed of the outcome of the complaint.

(3) The Board may, following receipt of the written declaration mentioned in regulation 6, ask the competent authorities of the Member States in which temporary service providers are legally established for, *inter alia*, information relevant to the legality of the establishment of the temporary service provider and his good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature:

Provided that where, on the basis of the information provided by the competent authorities of the Member States in which temporary service providers are legally established, the Board is of the opinion that the provision of accountancy services by such temporary service provider is prejudicial to the interests of recipients, the Board may, by notice to him, prohibit such temporary service provider from providing accountancy services in Malta:

Provided further that the provisions of regulation 5(3) shall, *mutatis mutandis*, apply to a temporary service provider who, notwithstanding notification in terms of this sub-regulation, continues to provide accountancy services in Malta:

Provided further that a decision of the Board taken pursuant to this sub-regulation shall be subject to appeal in terms of article 15B of the Act.

10. A temporary service provider providing accountancy services on a temporary and occasional basis in Malta shall adhere to any directives or guidelines regulating the professional conduct of warrant holders and practising certificate holders, code of ethics, standards of competency and integrity and independence to be kept by the profession.

Professional conduct.

Sanctions.

**11.** (1) A temporary service provider shall be prohibited by the Board from providing accountancy services in Malta where, following an enquiry held by a disciplinary committee appointed under article 7(16) of the Act, the temporary service provider has been found guilty of:

- (a) a contravention of these regulations; or
- (b) a contravention of the directives or guidelines regulating the professional conduct of warrant holders and practising certificate holders, code of ethics, standards of competency and integrity and independence to be kept by the profession mentioned in regulation 10.

(2) A decision of the Board taken pursuant to regulation 5(2) shall be subject to appeal in terms of article 15B of the Act.

Application to  
certain audit  
services.

**12.** The provisions of these regulations shall apply *mutatis mutandis* to any work or service required or permitted by any law to be provided or rendered by an auditor:

Provided that this regulation shall not apply to statutory audits.

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