SUBSIDIARY LEGISLATION 595.03

NATIONALITY REQUIREMENTS FOR APPPOINTMENTS IN PUBLIC ADMINISTRATION REGULATIONS

2nd August, 2011

LEGAL NOTICE 315 of 2011,as amended by Legal Notice 237 of 2020.

Citation.

1. The title of these regulations is the Nationality Requirements for Appointments in Public Administration Regulations.

Interpretation.

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

"acts adopted by the European Union" has the meaning assigned by article 2 of the European Union Act; Cap. 460.

"employment licence" means a licence as defined in regulation 2 of the Immigration Regulations; S.L. 217.04

"European Union" has the meaning assigned by article 2 of the European Union Act; Cap. 460.

"Maltese national" means any person who holds Maltese citizenship in accordance with the provisions of the Maltese Citizenship Act; Cap. 188.

"provisions on the free movement of workers" means the provisions of Chapter 1 of Title IV of the Treaty on the Functioning of the European Union, and includes any other acts adopted by the European Union which affect the freedom of movement of workers;

"reserved post" means a post which has been reserved for Maltese nationals in accordance with regulation 5.

Nationality requirements for appointments in the Public Service.

3. (1) Subject to sub-regulation (2) and to regulation 5, no person shall be appointed to a public office unless that person is -

(*a*) a Maltese national; or

(*b*) a national of another Member State of the European Union who is entitled to equal treatment to Maltese nationals in matters of employment by virtue of the provisions on the free movement of workers; or

(*c*) a national of any other country who is entitled to equal treatment to Maltese nationals in matters related to employment by virtue of the application to that country of the provisions on the free movement of workers; or

(*d*) any other person who is entitled to equal treatment to Maltese nationals in matters related to employment in terms of the law or the provisions on free movement of workers on account of his family relationship with a person mentioned in paragraph (*a*), (*b*) or (*c*); or

(*e*) a third country national who has been granted long-term resident status in Malta under regulation 4 of the Status of Long-Term Residents (Third Country Nationals) Regulations, or who has been granted a residence permit under regulation 18(3) thereof, together with family members of such a third country national who have been granted a residence permit under theFamily Reunification Regulations; or

S.L. 217.05

S.L. 217.06

(*f*) in possession of a residence document issued in terms of the Residence Status of United Kingdom Nationals and their Family Members in Malta in accordance with the Agreement on the Withdrawal of the United Kingdom and Northern Ireland from the European Union and the European Atomic Energy Community Regulations:

S.L. 217. 25.

Provided that the appointment of any person to whom paragraphs (*b*), (*c*), (*d*) or (*e*) apply shall be subject to the issue of an employment licence, in so far as such a licence is lawfully required for that person to work in Malta.

(2) Where suitable candidates for a public office cannot be found, the Principal Permanent Secretary may, after informing the Public Service Commission, waive the requirements set out in sub-regulation (1).

(3) The Principal Permanent Secretary may, in writing, delegate his authority under sub-regulation (2) to other public officers, subject to the requirement to inform the Public Service Commission and to any other requirements which the Principal Permanent Secretary may impose.

(4) This regulation shall apply without prejudice to any language requirements which may from time to time be set for appointments to particular public offices when such requirements are proportionate and reasonably necessary for the proper fulfilment of the tasks involved.

Nationality requirements for appointments in agencies and other government entities.

4. (1) Subject to regulation 5, no government agency or government entity shall set any nationality requirements for appointments therewith except with the authorisation of the Principal Permanent Secretary.

Cap. 217.

(2) Sub-regulation (1) shall apply without prejudice to any other law including the Immigration Act and any regulations made thereunder, and to any language requirements which may from time to time be set for appointments to particular posts in any government agency or government entity.

Reservation of certain posts for Maltese nationals. Cap. 595.

5. (1) The Principal Permanent Secretary may issue directives and guidelines in terms of the Public Administration Act to ministries, departments, agencies, government entities and boards or commissions, to reserve for Maltese nationals any posts involving the exercise of public authority and the safeguarding of the general interests of the State, including any or all of the following:

(*a*) posts in the Office of the President, the House of

Representatives, the Prime Minister's and Ministers' secretariats, the Cabinet Office, and the offices of the Principal Permanent Secretary and any Permanent Secretary;

(*b*) posts involving the preparation of expert advice in the field of prosecution of offences or lawmaking, and posts entailing responsibility for advisory constitutional bodies;

(*c*) posts involving the sovereignty of the State, including diplomatic and foreign representation;

(*d*) posts in the Office of the Prime Minister and the Ministries of Finance, Justice, Home Affairs and Foreign Affairs;

(*e*) posts within departments charged with the protection of the economic interests of the State, including tax authorities;

(*f*) positions in the Senior Executive Service;

(*g*) posts in the disciplined forces and offices responsible for defence matters; and

(*h*) posts in the security services and in the field of civil protection and defence.

(2) The directives and guidelines issued by the Principal Permanent Secretary in accordance with this regulation may establish procedures to ensure that, following the coming into force of these regulations, he is alerted to vacancies in posts to which sub-regulation (1) applies with a view to determining whether or not each such post should be reserved for Maltese nationals.

(3) Where Maltese nationals suitably qualified for appointment to a reserved post are not found, or where the Principal Permanent Secretary believes that they are not likely to be found, the Principal Permanent Secretary may authorise the appointment of a non-Maltese national through such procedures as may be applicable and under such terms and conditions as he may prescribe.