

**L.N. 191 of 2007**

**EUROPEAN UNION ACT  
(CAP. 460)**

**Free Movement of European Union Nationals and their Family  
Members Order 2007**

BY VIRTUE of the powers conferred by article 4(2) of the European Union Act the Prime Minister has made the following Order:-

**Part I  
Preliminary**

**1.** (1) The title of this Order is the Free Movement of European Union Nationals and their Family Members Order, 2007. Citation, scope and applicability.

(2) This Order revokes and replaces Part II of the Immigration Regulations with respect to nationals of the EU only, with effect from the day it is published. Such Regulations shall continue to apply to those countries whose nationals have freedom of movement in the European Union but in respect of whom the provisions of Directive 2004/38/EC are not yet effective. S.L. 217.04

(3) This Order implements, *inter alia*, the provisions of Council Directive 2004/38/EC of the European Parliament and of the Council of the 29 April 2004.

(4) This Order shall apply to all Union citizens who move to or reside in Malta other than Maltese nationals, and to their family members or other family members as defined in this Order, who accompany or join them, as well as to third country nationals.

**2.** For the purposes of this Order, unless the context otherwise requires – Definitions.

“the Act” means the Immigration Act; Cap. 217.

“the Board” means the Immigration Appeals Board constituted by article 25A of the Act;

“the Director” means the Director for Citizenship and Expatriate Affairs;

“family member” means :

(a) the spouse, provided it does not include a party to a

marriage of convenience;

(b) the direct descendants who are under the age of 21 or are dependants, and those of the spouse;

(c) the dependent direct relatives in the ascending line and those of the spouse;

“other family member” means:

(a) a person who, irrespective of his nationality, in the country from which he has come, is a dependant or a member of the household of the Union citizen having the primary right of residence, or

(b) a person who, for serious health reasons, strictly requires personal care by the Union citizen, or

(c) the partner with whom the Union citizen has a durable relationship unless such relationship is in conflict with the public policy of Malta;

Cap. 343.

“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 this Order;

“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 by virtue of the Constitution of Malta and any other law as may be in force;

“Member State” means a Member State of the European Union other than Malta and a state of the European Economic Area;

“the Minister” means the Minister responsible for immigration;

“permanent residence certificate” means a certificate issued to a Union citizen in accordance with article 7 as proof of the holder’s right of permanent residence in Malta as at the date of issue;

“permanent residence card” means a card issued to a family member who is a third country national, in accordance with article 7, as proof of the holder’s right of permanent residence in Malta as at the date of issue;

“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;

“registration certificate” means a certificate issued to a Union citizen in accordance with article 7 as proof of the holder’s right of residence in Malta as at the date of issue;

“residence card” means a card issued to a family member or other family member who is a third country national in accordance with article 7 as proof of the holder’s right of residence in Malta as at the date of issue;

“third country” means any State which is not a Member State;

“third country national” means a person who is not a Union citizen;

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

“the Treaty” means the Treaty establishing the European Community;

“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 a family member or an other family member of a Union citizen. 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 or a family member or an other family member of a Union citizen who is not exercising a Treaty right in Malta;

“Union citizen”, for the purposes of this Order, means any person having the nationality of a Member State but does not include Maltese nationals;

“visa” means an authorisation issued in terms of article 8 of the Act for the purpose of this Order;

“worker” means a worker within the meaning of Article 39 of the Treaty establishing the European Community.

## **PART II**

### **Entry and residence of citizens of the Union, family members and other family members**

General provisions.

3. (1) Subject to the provisions of this Order, a Union citizen may enter, remain and reside in Malta, seek and take up employment or self-employment therein, and shall enjoy equal treatment with Maltese nationals within the scope of the Treaty, and such right shall, subject to what is stated in this Order, be also applicable to family members accompanying or joining the Union citizen, including those who are not nationals of a Member State:

Provided that the Director may refuse, terminate or withdraw any such right in the case of abuse of rights or fraud:

Provided further that the Union citizen shall not be entitled to social assistance during the first three months of residence or, where appropriate, the longer period referred to in subarticle (4) other than workers, self-employed persons, persons who retain such status and members of their families, nor shall he be entitled, prior to acquisition of the right of permanent residence, to maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons.

(2) Subject to limitations justified on grounds of public policy, public security or public health, a Union citizen and his family members accompanying or joining him, may enter and leave Malta simply with a valid identification document in the case of Union citizens and a valid passport in the case of family members who are not nationals of Member States:

Provided that, where appropriate, family members who are not nationals of a Member State shall be required to have an entry visa, which shall be issued free of charge as soon as possible and on the basis of an accelerated procedure, unless they are already in possession of a valid residence card, and no entry or exit stamp shall be placed in the passport of such family members in possession of a valid residence card:

Provided further that the Principal Immigration Officer shall give every reasonable opportunity to a Union citizen or a family member who is not a national of a Member State and who does not have the necessary travel documents available, to obtain the necessary documents or have them brought to him or to corroborate

or prove by other means that he is covered by the provisions of Part II of this Order.

(3) Subject to the provisions of subarticles (1) and (2) and article 4, a Union citizen and his family members accompanying or joining him may reside and move freely within Malta on the same conditions as Maltese nationals for a period of three months without any conditions or any formalities, commencing on the date of entry or such other period as may be prescribed by subarticle (4):

Provided that a Union citizen and his family members shall so reside as long as they do not become an unreasonable burden on the social assistance system of Malta.

(4) The period of three months referred to in subarticle (3) is extendable to a six-month period, in the case of a person who provides evidence that, subject to the provisions of this Order, he is genuinely seeking employment and has a genuine prospect of securing employment by the end of the said period of six months.

(5) The Director shall give due and proper consideration in relation to the admission and residence of an other family member by undertaking an extensive examination of the personal circumstances and shall justify any denial of entry or residence to such other family member.

(6) A Union citizen who arrives in Malta and who is not covered by the provisions of article 31 of the Act applicable to places of accommodation for reward shall, within one month of his arrival, report his presence in Malta to the Principal Immigration Officer by reporting at any office designated by the Principal Immigration Officer, and shall be issued with an acknowledgement in writing of such report. Reporting.

(7) Any person who fails to comply with the provisions of subarticle 1 shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of one hundred liri:

Provided that if before the person has been found guilty of having committed an offence under this article, such person pays to the Commissioner of Police an administrative penalty of between ten and one hundred liri, as may be determined by the Commissioner of Police, no proceedings in respect of any criminal offence committed in violation of this Article shall be commenced or continued.

4. (1) A Union citizen and his family members, even if such family members are third country nationals, may take up residence in Malta for a period longer than three months subject to the Residence for more than three months.

provisions of articles 3(4), 5, 6, 8, 9, 10, 11 and 12 as applicable.

(2) Where a reasonable doubt exists as to whether the Union citizen or his family members have satisfied the conditions contained in the articles referred to in subarticle (1), the Director shall have the right to verify these conditions.

(3) Without prejudice to any rights which family members or other family members may enjoy in terms of Part I and II of this Order, they may reside in Malta only for as long as the right of residence of the Union citizen continues and the applicable conditions mentioned in such Parts continue to subsist.

Family members who have retained the right of residence. Cap. 255.

5. (1) The death of the Union citizen, his departure from Malta, his divorce recognised under the Marriage Act, or annulment of his marriage shall not affect the rights of residence of his family members who are nationals of a Member State.

(2) The death of the citizen of the Union shall not affect the right of residence of his family members who are third country nationals and who have been residing in Malta as family members for at least one year before the Union citizen's death.

(3) The divorce or the annulment of the marriage of the Union citizen shall not affect the rights of residence of his family members who are third country nationals where:

(a) the marriage had lasted for at least three years immediately before the initiation of proceedings for its termination and the parties to the marriage had resided in Malta for at least one year during the duration of the marriage; or

(b) by agreement between the spouses or following a court order, the former spouse has custody of the Union citizen's children; or

(c) the continued right of residence in Malta is warranted by particularly difficult circumstances, including having been victims of domestic violence while the marriage was subsisting; or

(d) by agreement between the spouses or following a court order, the former spouse who is not a national of a Member State has the right of access to a minor child provided that the court has ruled that such access must be in Malta, for as long as is required.

(4) The death of the Union citizen or his departure from Malta

shall not affect the right of residence of his children or of the parent who has actual custody of the children irrespective of nationality, if the children reside in Malta and are enrolled at an educational establishment for the purposes of studying, until the completion of their studies.

(5) The third country nationals referred to in subarticles (2), (3) and (4) shall retain their right of residence exclusively on a personal basis.

**6.** (1) Subject to the provisions of this article, a Union citizen who has resided legally for a continuous period of five years in Malta and his family members who are not nationals of a Member State and who have legally resided with him in Malta for a continuous period of five years and persons referred to in article 5 as applicable, may reside permanently in Malta and such right, once acquired, shall not, without prejudice to any provision of articles 12 and 13 which may apply, be subject to the conditions provided for in articles 8, 9, 10 or 11:

Right of permanent residence.

Provided that a person who is a Union citizen and who is referred to in article 5 shall, before acquiring the right of permanent residence, be able to show that he satisfies the conditions mentioned in articles 8, 9, 10 or 11 as applicable:

Provided further that a person referred to in article 5(1), (2) and (3), who is not a Union citizen shall, before acquiring the right of permanent residence, be able to show that he satisfies the conditions mentioned in articles 8, 9 or 11 as applicable or, in the case of his family members, they are members of the family already constituted in Malta.

(2) The Director shall require the Union citizen and his family members referred to in this article to provide proof of continuous residence as may be prescribed.

(3) Continuity of residence shall not be affected by:

(a) temporary absences not exceeding a total of six months in each year; or

(b) absences of a longer duration for compulsory military service; or

(c) one absence of a maximum of twelve consecutive months for important reasons including pregnancy and childbirth, serious illness, study or vocational training, or a posting in another Member State or a third country.

(4) Once permanent residence is acquired, the Union citizen and his family members shall only lose such status of permanent residence through absence from Malta for a period exceeding two consecutive years.

(5) The following persons shall enjoy permanent residence in Malta before completion of the continuous period of five years of residence provided for in subarticle (1):

(a) a worker or self-employed person who, at the time of his termination of employment, has reached the retirement age, provided that such person has been working in Malta for at least twelve months prior to the termination of his employment and has resided in Malta continuously for more than three years prior to such termination;

(b) a worker who has ceased paid employment to take early retirement, provided that such worker has been working in Malta for at least twelve months prior to the termination of his employment and has resided in Malta continuously for more than three years prior to such termination;

(c) a worker or self-employed person who has resided continuously in Malta for more than two years and has stopped working as a result of permanent incapacity to work, 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;

(d) a worker or self-employed person who after three years of continuous employment and residence in Malta works in an employed or self-employed capacity in another Member State, while retaining his place of residence in Malta to which he returns, as a rule, at least once a week.

(6) For the purposes of entitlement to permanent residence by the persons referred to in subarticle (5) (a), (b) and (c), periods of employment spent in another Member State in which such person concerned has worked or is working, shall be regarded as having been spent in Malta.

(7) For the purposes of subarticle (5)(a), (b) and (c) of this article:

(a) periods of inactivity for reasons not of the person's own making,

(b) periods of inactivity due to illness or accident, and

(c) periods of involuntary unemployment duly recorded by the employment agency,

shall be treated as periods of activity as a worker or self-employed person.

(8) Without prejudice to any rights that may be enjoyed under the Act, the conditions as to length of residence and employment laid down in subarticle (5) (a), (b) and (c) shall not apply if the spouse of any such person is a former citizen of Malta who has lost Maltese citizenship by reason of marriage to him.

(9) Family members of the person referred to in subarticle (5) and who are residing with him in Malta, shall have the right of permanent residence if such person has acquired such right:

Provided that, without prejudice to any rights that may be enjoyed under the Act, if such worker or self-employed person dies while still working before having acquired the right to remain permanently in Malta, family members shall be entitled to the right of permanent residence in Malta if -

(a) such person had, on the date of his death, resided continuously in Malta for two years; or

(b) that his death resulted from an accident at work or an occupational disease; or

(c) that the surviving spouse is a former citizen of Malta and has lost Maltese citizenship by reason of marriage to such person.

7. (1) A citizen of the Union and his family members residing in Malta in accordance with article 3(3), shall not be required to be in possession of a registration certificate or a residence card before the expiry of three months from the date of their arrival in Malta.

Registration certificates, residence cards, permanent residence certificates and permanent residence cards.

(2) Upon the expiry of three months from the date of their arrival in Malta, the persons referred to in subarticle (1), who are citizens of the Union, shall apply for a registration certificate to the Director.

(3) The Director shall issue a registration certificate immediately, stating the name and address of the person registering and the date of the registration.

(4) Upon the expiry of three months from the date of arrival in Malta, family members who are not citizens of the Union referred to in article 7(1) shall apply for a residence card to the Director.

(5) In accordance with article 3(5), the Director may issue a registration certificate or a residence card to an other family member as applicable.

(6) The Director shall issue a residence card to be known as 'Residence card of a family member of a Union citizen' or as applicable, no later than six months from the date of application:

Provided that a certificate of application for a residence card shall be issued immediately.

(7) The validity of such residence card shall be of five years from the date of issue or for the envisaged period of residence of the Union citizen, if such period is less than five years:

Provided that the validity of the residence card shall not be affected by the absences referred to in article 6(3).

(8) The Director shall issue a citizen of the Union, who is entitled to reside in Malta permanently in accordance with Article 6, with a permanent residence certificate as soon as possible after an application for such a certificate and proof that the citizen of the Union is so entitled has been submitted to the Director.

(9) The Director shall issue a family member, who is a third country national, and who is entitled to reside in Malta permanently under article 6, with a permanent residence card no later than six months after the date on which an application for such a card and proof that the family member is so entitled has been submitted to the Director.

(10) A permanent residence card shall be valid for ten years from the date of issue and shall be renewed automatically by the Director upon application made before the expiry of the said residence card:

Provided that the validity of the said residence card shall cease upon interruption of residence in Malta for a period exceeding two years.

(11) Registration certificates, residence cards, permanent registration certificates and permanent residence cards shall be issued free of charge.

(12) Possession of a registration certificate, a certificate confirming permanent residence, a certificate attesting submission of an application for a residence card or for a permanent resident card shall, under no circumstances, be made a pre-condition for the exercise of a right or the completion of an administrative formality under Parts I and II of this Order.

(13) Any member of the Police force may require any person to whom a registration certificate, residence card, permanent registration certificate or permanent residence card has been issued, to produce the said document, which shall be valid, on demand, or if it is not practicable for the person so required to produce it on demand, not later than twenty-four hours after the demand and, failure to do so shall constitute an offence against the provisions of this Order and persons failing to do so shall be liable to a fine (*multa*) not exceeding one hundred liri and, in the case of a continuing offence, to a fine (*multa*) not exceeding five liri for each day during which the offence continues:

Provided that, if before the person is found guilty of having committed an offence in terms of this Order, such person pays to the Commissioner of Police, an administrative penalty of between ten and one hundred liri, as may be determined by the Commissioner of Police, no proceedings in respect of any criminal offence committed in violation of this article shall be commenced or continued.

(14) When issuing a registration certificate or a residence card as provided for under this article, in order to ascertain whether the person concerned represents a danger for public policy or public security as provided for in article 14, the Director may, should he consider this essential but not as a matter of routine, request the Member State of origin or other Member States to provide information concerning any previous police record such person may have:

Provided that, if a Member State makes such a request for information concerning any previous Police record of a Union national, family member or other family member, to the competent authorities in Malta, such information shall be transmitted to the requesting Member State within two months.

(15) The provisions of this Order shall be without prejudice to the provisions of any law regulating the acquisition of property in Malta by non-Maltese nationals and a registration certificate or residence card 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.

Residence and  
employment.

8. (1) Without prejudice to article 3 and subject to any restrictions or conditions as may be imposed by this Order, a Union citizen (hereinafter referred to as “worker”) may reside in Malta in order to take up employment:

Provided that no such employment can be undertaken unless a licence has been issued:

Provided further that such licence shall not, subject to what is stated herein, be withheld.

(2) The Minister responsible for employment may, by Order:

(a) on the advice of the employment agency indicate that in his opinion the grant of a licence to a Union citizen and, or his family members 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 and, in such case, no further licence shall be issued in the said sector or occupation while the disturbance in the labour market subsists; or

(b) restrict the labour market, entirely or partially, for nationals of Member States in line with the arrangements stipulated in the Treaty of Accession to the European Union of such States, that may be applicable during a specified period of time.

(3) For the purposes of subarticle (2) 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.

S.L. 343.23.

(4) The provisions of this Order shall be without prejudice to any restrictions on employment with the Public Service.

(5) Where a Union citizen is a worker pursuing an activity as an employed person in Malta, his family members shall, even if they are third country nationals, be able to install themselves with the worker, and for such purposes, they shall be issued with a registration certificate or a residence card as the case may be in accordance with the provisions of article 7, subject to the same rights and conditions applicable to the Union citizen, including the right to take up an activity as an employed or self-employed person in Malta.

(6) The Director shall give due and proper consideration relating to the admission of an other family member of a Union citizen referred to in subarticle (1) as provided for in article 3(5).

(7) Entitlement to a registration certificate and, or, residence card shall be evidenced as follows:

(a) by the worker:

(i) with the production of a valid identification document with which the citizen of the Union entered Malta; and

(ii) with the production of a licence;

(b) by the family members or other family members:

(i) with a valid identification document if the said members are EEA nationals and a valid passport if they are third country nationals;

(ii) with a document issued by the competent authority of the country of origin or the country from which such family members came, proving their relationship to the worker;

(iii) with a document issued by the competent authority of the country of origin or the country from which the family members came, in the case they are dependent children over twenty-one or are dependent direct relatives in the ascending line, or other family members, testifying that they depend on the worker;

(iv) where applicable, with the registration certificate of the worker;

(v) in the case of other family members only, where the existence of serious health grounds which strictly requires the personal care by the Union citizen, with proof that they are members of the household of the worker;

(vi) in the case of the worker's partner, with proof of the existence of a durable relationship with the Union citizen.

(8) For the purpose of this Order, a Union citizen shall retain the status of worker if:

(a) he is in duly recorded involuntary unemployment after having been employed for more than one year and has registered as a job seeker with the employment agency; or

(b) he is temporarily unable to work as the result of an illness or accident; or

(c) he is in duly recorded involuntary unemployment after completing a fixed term employment contract of less than a year or after having become involuntarily unemployed during the first twelve months and has registered as a job seeker with the employment agency; or

(d) he embarks on vocational training:

Provided that, in relation to subarticle (c), the status of worker shall be retained for no less than six months:

Provided further that in relation to subarticle (d), the retention of the status of worker shall require the training to be related to the previous employment unless he is involuntarily unemployed.

Residence and  
self-  
employment.

9. (1) Without prejudice to the provisions of article 3 and subject to any restrictions or conditions as may be imposed by this Order, a citizen of the Union may reside in Malta in order to pursue activities as a self-employed person.

(2) Where a Union citizen is pursuing an activity as a self-employed person in Malta, his family members may, even if they are third country nationals, install themselves with such person, and for such purposes, they shall be issued with a registration certificate or a residence card, as the case may be, in accordance with the provisions of article 7, subject to the same rights and conditions applicable to the Union citizen, including the right to take up an activity as an employed or self-employed person in Malta.

(3) The Director shall give due and proper consideration to the admission of an other family member of the Union citizen referred to in subarticle (1) of this article as provided for in article 3(7).

(4) Entitlement to a registration certificate by the Union citizen who is a self-employed person shall be evidenced as follows:

(a) with the production of a valid identification document with which the citizen of the Union entered Malta; and

(b) proof that the Union citizen mentioned in subarticle

(1) is a self-employed person.

(5) The provisions of article 8(7)(b) relating to the issue of a registration certificate or a residence card, as applicable, shall apply *mutatis mutandis* in respect of family members and other family members of the Union citizen who is self-employed.

(6) The provisions of article 8(8) shall apply *mutatis mutandis* to self-employed persons who shall, in such case, retain the status of self-employed persons.

(7) No citizen of the Union or his family members can pursue activities as a self-employed person 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.

**10.** (1) Without prejudice to the provisions of article 3 and subject to any restrictions or conditions as may be imposed by this Order, a Union citizen (herein referred to as the “student”) may reside in Malta for the purpose of following a course of education, including vocational training. Residence for study purposes.

(2) The right of residence recognised by subarticle (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; and Cap. 327.  
Cap. 343.

(b) that he and his family members, entitled to accompany him as defined in subarticle (3), and who are accompanying him, are covered by comprehensive sickness insurance in respect of all risks in Malta; and

(c) that, by means of a declaration or otherwise, he gives an assurance to the Director 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 family members.

(3) The family members of the Union citizen referred to in subarticle (2)(b), even if they are third country nationals, may install themselves with such person, and for such purposes, they shall be issued with a registration certificate or a residence card, as the case may be, in accordance with the provisions of article 7, subject to the same rights and conditions applicable to the Union citizen, including the right to take up an activity as an employed or self-employed person in Malta:

Provided that the term ‘family members’ does not include the direct ascendants of the student or of his spouse saving that the Director shall give due and proper consideration relating to the admission and residence of such persons as provided for in article 3(5).

(4) The Director shall give due and proper consideration relating to the admission and residence of an other family member of the Union citizen referred to in subarticle (1) as provided for in article 3(5).

(5) Entitlement to a registration certificate or a residence card where it arises under this article, shall be evidenced as follows:

(a) by the student:

(i) with a valid identification document;

(ii) with 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) with proof that he is covered by comprehensive sickness insurance as provided for in subarticle (2)(b);

(iv) with a declaration or otherwise that he has sufficient resources as provided for in subarticle (2)(c);

(b) by his family members:

(i) with a valid identification document if the said members are EEA nationals and a valid passport if they are third country nationals;

(ii) proof that each family member is covered by comprehensive sickness insurance as provided in subarticle (2)(b);

(iii) a declaration or otherwise by the student that he has sufficient resources as referred to in paragraph (2)(c);

(iv) the provisions of article 8(7)(b)(iii) to (vii) relating to the issue of a registration certificate or a residence card, as applicable, shall apply *mutatis mutandis* in respect of family members and other family members of the Union citizen who is a student.

**11.** (1) Without prejudice to the provisions of article 3 and subject to any restrictions or conditions as may be imposed by this Order, any citizen of the Union may reside in Malta if he: Residence by other persons.

(a) has sufficient resources for himself and his family members and other family members, ensuring that they do not become a burden on the social assistance system in Malta; and

(b) has comprehensive sickness insurance cover in Malta for himself and his family members.

(2) The family members of the Union citizen referred to in subarticle (1), even if they are third country nationals, may install themselves with such Union citizen, and for such purposes, they shall be issued with a registration certificate or a residence card, as the case may be, in accordance with the provisions of article 7, subject to the same rights and conditions applicable to the Union citizen, including the right to take up an activity as an employed or self-employed person in Malta.

(3) The Director shall give due and proper consideration to the admission of an other family member of the Union citizen referred to in subarticle (1) as provided for in article 3(7).

(4) Entitlement to a registration certificate by the Union citizen referred to in subarticle (1) shall be evidenced as follows:

(a) with proof that he and his family members and other family members are covered by comprehensive sickness insurance in respect of all risks in Malta;

(b) with proof that he has sufficient resources for himself and his family members and other family members as provided for in this article, to avoid their becoming a burden on the social assistance system in Malta during the period of their residence;

(c) with the production of a valid identification document of the citizen of the Union;

(d) the provisions of article 8(7)(b) relating to the issue of a registration certificate or a residence card, as applicable, shall apply *mutatis mutandis* in respect of family members and other family members of the Union citizen who may reside in Malta by virtue of subarticle (1).

(5) For the purposes of subarticle (4)(b), the resources referred to in that paragraph shall be deemed sufficient if they are equivalent to the level of resources indicated by the Minister 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 Union citizen referred to in subarticle (1) and, where appropriate, the personal circumstances of accompanying family members. If this criterion cannot be applied, such resources shall be deemed sufficient if they are equivalent to the level of the national minimum social security pension payable by the Government of Malta at the time of application.

Restrictions on  
right of entry  
and right of  
residence.

**12.** (1) The rights referred to in article 3(1) shall be restricted by a decision taken on grounds of public policy, public security or public health:

Provided that such rights shall not be restricted solely to serve economic ends.

(2) In the application of the provisions of subarticle (1):

(a) the relevant decision shall comply with the principle of proportionality;

(b) the relevant decision must be based exclusively on the personal conduct of the person concerned saving that:

(i) the person's previous criminal convictions do not, in themselves, constitute grounds for taking the relevant decision;

(ii) the personal conduct of the person concerned represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society;

(iii) matters isolated from the particulars of the case or which relate to considerations of general prevention, do not justify a relevant decision.

(3) A decision to restrict right of entry and right of residence on grounds of public health, shall be limited to those diseases with epidemic potential as defined by the relevant instruments of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to Maltese nationals in line with the Public Health Act: Cap. 465.

Provided that where there are serious indications that it is necessary, and not as a matter of routine, the Director may, in consultation with and upon the recommendation of the Superintendent of Public Health, within three months of the date of their arrival, require persons entitled to the right of residence to undergo, free of charge, a medical examination to certify that they are not suffering from any such diseases.

**13.** (1) A person who ceases to have the right to reside by virtue of this Order or who becomes an unreasonable burden on the social assistance system, may be removed from Malta: Removal and protection against removal.

Provided that a removal order shall not be the automatic consequence of the person's recourse to the social assistance system of Malta:

Provided further that without prejudice to the provisions of this Order, a removal order shall not be issued in the case of a worker, or self-employed person, or job-seeker who can provide evidence that he is continuing to seek employment and that he has a genuine chance of being engaged.

(2) In the case where a decision for removal on grounds of public policy or public security is being taken, the Principal Immigration Officer shall take into account a number of considerations which may include:

- (a) the period of residence in Malta of the person to be removed;
- (b) the age of such person;
- (c) the person's state of health;
- (d) his family and economic situation;
- (e) his social and cultural integration in Malta;
- (f) the extent of his links with his country of origin.

(3) A decision for removal shall not be taken in the case of a Union citizen and his family members, irrespective of nationality, who have the right of permanent residence, except on serious grounds of public policy and public security.

(4) A removal decision shall not be taken against a Union citizen, except if the decision is based on imperative grounds of public security, if such citizen:

(a) has resided in Malta for a continuous period of at least 10 years prior to such decision; or

(b) is under the age of 18 years unless such decision is necessary in his best interests.

(5) Diseases referred to in article 12(3), occurring after a three-month period from the date of arrival, shall not constitute grounds for removal of the Union citizen, his family members and other family members from Malta on grounds of public health.

(6) Expiry of the identification document used by a citizen of the Union and his family members and other family members 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.

Procedures.

**14.** (1) The Director shall inform the person whose free movement has been restricted in accordance with this Order, or who is to be removed, in writing, precisely and in full, of the reasons for such restriction or of the grounds for such removal, on which the decision taken in his regard is based, in a way that is comprehensible to such person, unless this is contrary to the interests of the security of Malta.

(2) The Director shall inform the person referred to in subarticle (1), in writing, also of such person's right to lodge an appeal to the Immigration Appeals Board and of the time limit for the appeal.

(3) The Principal Immigration Officer shall, in relation to any person who is removed on grounds of public policy or public security and who makes the declaration in writing in line with article 24 of the Act, reach a decision on the declaration within six months of its submission and such person shall have no right of entry into Malta pending the consideration of his declaration.

(4) The Principal Immigration Officer may not impose a ban on re-entry following a removal provided that such removal did not

take place on grounds of public policy, public security or public health.

(5) A removal order shall not be issued by the Principal Immigration Officer as a penalty or legal consequence of a custodial penalty unless such order conforms to the requirements of articles 12 and 13.

(6) If a removal order as provided for in subarticle (5) is enforced more than two years after it was issued, the Principal Immigration Officer, in consultation with the Director, shall ascertain whether the individual concerned is currently and genuinely a threat to public policy or public security and shall assess whether there has been any material change in the circumstances since the removal order was issued.

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