L.N. 29 of 2008

IMMIGRATION ACT
(CAP. 217)

Conditions of Admission of Third-country Nationals for the purposes of Studies Regulations, 2008

IN exercise of the powers conferred by article 36 of the Immigration Act, the Deputy Prime Minister and Minister for Justice and Home Affairs, has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Conditions of Admission of Third-country Nationals for the purposes of Studies Regulations, 2008.

(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.

Interpretation.

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;"

Cap. 452.

"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 Order on the Free Movement of European Union Nationals and their Family Members;

L.N. 191 of 2007.

(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, 2006; and L.N. 278 of 2006.

(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, 1993. L.N. 110 of 1993.

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 of these regulations.

General conditions.

6. A third-country national who applies to be admitted for the purposes set out under this regulation and regulation 8 of these regulations 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 2004, 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; L.N. 201 of 2004.

(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.

Mobility of students.

7. (1) Without prejudice to regulations 9 and 10(1) of these regulations, 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) hereof, 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 of these regulations; or

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

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

(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 of these regulations, the student shall have the right to appeal against such decision to the Immigration Appeals Board.

Economic activities by students.

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.

Ippubblikat mid-Dipartiment ta' l-Informazzjoni (doi.gov.mt) — Valletta — *Published by the Department of Information (doi.gov.mt) — Valletta*
Mitbugh fl-Istamperija tal-Gvern — *Printed at the Government Printing Press*

Prezz/*Price*
€0.56 (Lm0.24)