L.N. 370 of 2010

IMMIGRATION ACT
(CAP. 217)

Status of Long-term Residents (Third Country Nationals) (Amendment) Regulations, 2010

IN exercise of the powers conferred by articles 4A and 36 of the Immigration Act, the Minister for Justice and Home Affairs has made the following regulations:-

Title and purpose.

1. (1) The title of these regulations is the Status of Long-term Residents (Third Country Nationals) (Amendment) Regulations, and they shall be read and construed as one with the Status of Long-term Residents (Third Country Nationals) Regulations hereinafter referred to as "the principal regulations".

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(2) The purpose of these regulations is to amend the Status of Long-term Residents (Third Country Nationals) Regulations so as to further implement the provisions of the Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.

(3) These regulations shall come into force on the 1st August, 2010.

Amends regulation 4 of the principal regulations.

2. Regulation 4 of the principal regulations shall be amended as follows:

(a) for sub-regulation (2) thereof, there shall be substituted the following:

"(2) In calculating the period of five years provided for in sub-regulation (1), periods of residence for the reasons stated in regulation 3(2)(a), (e) and (f) shall not be taken into account."; and

(b) for the proviso to sub-regulation (3) thereof, there shall be substituted the following:

"Provided that, the Director may consider a longer period of absence than the total of ten months referred to in sub-regulation (3), by a further period of twelve months when such absence is due to:

(i) health reasons;

(ii) secondment by the employer of the third country national;

(iii) business travel; or

(iv) education or training purposes.

In such cases, the period of absence longer than the total of ten months shall not be taken into account in the calculation of the period referred to in regulation 4(1).".

3. Regulation 5 of the principal regulations shall be amended as follows: Amends regulation 5 of the principal regulations.

(1) Paragraphs (a) and (b) of sub-regulation (2) thereof shall be substituted by the following:

"(a) stable and regular resources which are sufficient to maintain himself and the members of his family without recourse to the social assistance system in Malta or to any benefits or assistance of any type payable under the Social Security Act, the Housing Authority Act and any other law providing any assistance of a social nature and which would be equivalent to, at least, the average wage in Malta with an addition of another twenty percent of the average gross wage for each member of the family;

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(b) appropriate accommodation that is not shared with any other person or persons not being family members regarded as normal for a comparable family in Malta and which meets the standards, which shall be published by notice in the Gazette on the date of the coming into force of these regulations and subsequently every five years, as defined by the Ministry responsible for housing;".

(2) Immediately after sub-regulation (2) there shall be added the following new sub-regulations:

"(3) In order to be eligible to apply for long-term resident status, a third country national shall provide evidence that he has complied with the following integration conditions, namely:

(a) in the last twelve months immediately prior to the application for long term resident status he has attended a course organised by the public employment service or any other competent authority of at least one hundred hours having as its subject matter the social, economic, cultural and democratic history and environment of Malta, and that he provides evidence certifying that he has attended at least one hundred hours of the lessons of these courses with satisfactory attention and that he has achieved an examination pass mark of at least seventy five percent;

(b) has obtained a pass mark of at least seventy five percent after being assessed by the competent authorities to have achieved the equivalent of Malta Qualifications Framework Level 2 in either Maltese or English; and

(c) provides evidence that the necessary fees charged in relation to the courses, examinations and certificates referred to above have been paid.".

Amends regulation of the principal regulations.

4. In the Maltese version only, in sub-regulation (3) of regulation 8 of the principal regulations, the words "resident li joqgħod għal żmien twil - KE" shall be substituted by "resident fit-tul - KE".

Amends regulation 11 of the principal regulations.

5. Paragraph (a) of sub-regulation (1) of regulation 11 of the principal regulations shall substituted by the following:

"(a) access to employment and self-employed activity, as long as such activities do not entail even occasional involvement in the exercise of public authority and are not reserved by law for Maltese nationals in terms of the Public Administration Act and any regulations issued thereunder;".

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Amends regulation 14 of the principal regulations.

6. Regulation 14 of the principal regulations shall be amended as follows:

(1) In paragraph (a) of sub-regulation (2) thereof, the word "(e)" shall be substituted by the word "(d)".

(2) For paragraph (b) of sub-regulation (2) thereof, there shall be substituted the following:

"(b) The third country national shall provide evidence that he has stable and regular resources which are sufficient to maintain himself and the members of his family without recourse to the social assistance system in Malta and which would be equivalent to the average gross wage in Malta with an addition of another twenty percent of the average wage for each member of the family;".

(3) For sub-regulation (2) thereof, there shall be added the following new paragraph:

"(c) When not constituted in the first Member State, family members shall be allowed to accompany the third country national holding the long-term residence permit if the applicable provisions of the Family Reunification Regulations are satisfied."

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(4) For sub-regulation (3) thereof, there shall be substituted the following:

"(3) The person mentioned in sub-regulation (1) shall submit the evidence required in regulation 5(3):

Provided that if he has already complied with integration measures in the first Member State, he shall submit evidence of having complied with such measures as well as the evidence referred to in regulation 5(3)(b).".

Amends regulation 18 of the principal regulations.

7. In the proviso to sub-regulation (1) of regulation 18 of the principal regulations, the words "regulations 13 and 14" shall be substituted by the words "regulations 13 and 14(2)(a) and (b).".

Adds a new regulation to the principal regulations.

8. Immediately after regulation 22 of the principal regulations there shall be added the following new regulation:

"Transitory Provisions.

23. These regulations, as amended, shall not apply with regard to any application for long term resident status submitted prior to or after the date of the coming into force of these amendments, as long as the applicant was eligible to qualify for long-term resident status prior to the coming into force of these amendments.".

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