B 5308

L.N. 450 of 2013

MALTESE CITIZENSHIP ACT
(CAP. 188)

Individual Investor Programme of the Republic of Malta Regulations, 2013

IN exercise of the powers conferred by articles 10(9)(b) and 24 of the Maltese Citizenship Act, the President of Malta has made the following regulations:-

Citation.

1. The title of these regulations is the Individual Investor Programme of the Republic of Malta Regulations, 2013.

Interpretation.

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

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"Act" means the Maltese Citizenship Act;

"applicant" means the person who applies or on whose behalf it is being applied for his naturalisation as a citizen of Malta under the individual investor programme either as a main applicant or as a dependant;

"application" means an application made under these regulations;

"application requirements" means the formal and substantial requirements which each applicant must meet, as set forth in these regulations;

"authenticated translation" means a translation done by either a professional translator who is officially accredited to a court of law, a government agency, an international organization, or similar official institution, or if done in a country where there are no official accredited translators a translation, done by a company whose role or business is professional translation;

"certified copy" means a photocopy of an original document certified by a duly licensed lawyer, or notary public, a Maltese consular or diplomatic officer or a senior officer of the concessionaire to be a true copy of the original;

"concessionaire" means the entity awarded with the public service concession contract to design, implement, administer, operate and promote the programme, or any subsidiary of that entity, duly

authorized by the public service concession contract;

"contribution" means a contribution paid under these regulations seventy per cent of which shall be paid to the National Development and Social Fund, in accordance with these regulations;

"dependant" means:

(a) the spouse of the main applicant in a monogamous marriage or in another relationship having the same or a similar status to marriage, unless the Minister authorises otherwise on a case by case basis;

(b) a child, including an adopted child, of the main applicant or of his spouse who is less than eighteen years of age;

(c) a child of the main applicant or of his spouse who is between the age of eighteen and twenty-six years and who is not married and who proves, to the satisfaction of the Minister, that he is wholly maintained by the main applicant;

(d) a parent or grandparent of the main applicant or of his spouse above the age of fifty-five years who prove to the satisfaction of the Minister that they are wholly maintained or supported by the main applicant and form part of the household of the main applicant; or

(e) a child of the main applicant or of the spouse of the main applicant who is at least eighteen years of age, is physically or mentally challenged, and who is living with and is fully supported by the main applicant:

Provided that such person has the capacity to take an oath of allegiance;

"Identity Malta" means the agency established by the Identity Malta Agency (Establishment) Order; S.L. 497.07

"Approved Agent" means an audit firm, a law firm, a financial advisory firm, an intermediary firm or any other person or body which in all cases has been authorised to act as an authorised intermediary firm by Identity Malta for the purposes of these regulations;

"main applicant" means the person who, either as a single applicant or as the head of a family, undertakes to make a contribution for the purposes of these regulations and signs the relevant agreements and undertakings on behalf of his dependants;

"Minister" has the same meaning as assigned to it in the Act;

"National Development and Social Fund" means the fund established by the Government of Malta to receive the contributions;

"non-refundable payment" means the portion of the contribution paid up front at the time of submission of the application;

"police certificate" means a certificate of conduct, report or statement from a national law enforcement authority or other public authority in charge of criminal records on the status of an applicant's criminal record;

"programme" means the Individual Investor Programme of the Republic of Malta;

"public service concession" means the public service concession awarded to the concessionaire to design, implement, administer, operate and promote the programme.

Establishment of Individual Investor Programme.

3. (1) There is hereby established a programme, to be known as the "Individual Investor Programme of the Republic of Malta", which shall allow for the grant of citizenship by a certificate of naturalization to foreign individuals and their families who contribute to the economic development of Malta, as provided in these regulations.

(2) The operation of the programme shall be carried out by the concessionaire.

(3) Approved Agents shall be licensed by Identity Malta after carrying out a due diligence process in their regard. They shall be entitled to introduce prospective applicants to Identity Malta.

(4) Approved Agents shall pay an annual licence fee and shall abide by the conditions of their licence.

(5) Identity Malta shall be entitled to withdraw a licence issued to an Approved Agent if, after due investigation, it is satisfied that:

(a) the Approved Agent has acted in an unethical or an unprofessional manner and has substantially prejudiced the programme; or

(b) the Approved Agent has committed a serious breach of guidelines, codes of conduct or codes of ethics issued by Identity Malta from time to time and made specifically

applicable to Approved Agents.

Qualifications and general requirements.

4. (1) The qualifications and general requirements for a person to be a main applicant for citizenship under the programme shall be that any such person:

(a) is at least eighteen years of age;

(b) proposes to make a contribution as determined in the Schedule;

(c) meets the application requirements;

(d) commits himself to provide proof of a residential address in Malta as provided in these regulations; and

(e) commits himself to invest, amongst others, in stocks, bonds, debentures, special purpose vehicles or to make other investments as provided from time to time by Identity Malta by means of a notice in the Gazette:

Provided that beneficiaries of the Global Residence Programme provided for under the Income Tax Act shall be allowed to apply for the Individual Investor Programme subject to satisfying all the additional eligibility requirements of the Programme.

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(2) Applications shall be made on the forms prescribed under the Citizenship Regulations and shall be accompanied by the prescribed due diligence and bank charges fees, as specified in the Schedule, and by the originals or certified copies of the following:

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(a) a certificate in the form prescribed by Identity Malta from a reputable health system to the satisfaction of Identity Malta that the main applicant and his dependants are not suffering from any contagious disease and that they are otherwise in good health;

(b) a police certificate or certificates, which may however also be submitted subsequently at a later date but in any case before the application is approved;

(c) evidence, through due diligence processes, that the main applicant and his dependants are fit and proper persons to hold Maltese citizenship;

(d) an undertaking to remit the total of the required contribution, less the non-refundable payment already made at the time of submission of the application, of the amount as

specified in the Schedule, when called to do so by Identity Malta;

(e) an undertaking to purchase or take on lease immovable residential property in Malta in accordance with these regulations;

(f) an undertaking to make such other investments in Malta in accordance with these regulations; and

(g) any other document as may be required from time to time by notice issued by Identity Malta.

(3) All applications shall be submitted by the main applicant to Identity Malta either through Approved Agents or the concessionaire.

(4) Application forms and other accompanying documents shall be completed in English or, if the original language of the document is not English, the document shall be accompanied by an authenticated translation.

(5) The main applicant shall, with the exception of the spouse, provide an affidavit of support for each dependant who is over eighteen years old.

(6) Each application form shall be completed by the applicant and if the applicant is unable to complete the forms personally, it must be completed by a legal representative and signed by each and every applicant.

(7) The following conditions shall apply to dependants who are below the age of eighteen:

(a) the forms shall be signed by both parents on behalf of the dependant; and

(b) in the case where one parent has sole custody of a dependant, or another person has legal guardianship of a dependant, the appropriate legal documentation shall be provided to demonstrate that sole custody or guardianship was awarded by a court of law or other relevant authority.

(8) If an applicant makes a false statement or omits information requested, the application may be declined solely on that basis.

(9) Applications shall only be accepted and processed on

condition that all forms are properly completed, dated and signed, and accompanied by all required documents, fees and undertakings, including, but not limited to, an undertaking to remit the required contribution as called upon by Identity Malta following the approval in principle of the application:

Provided that police certificates may be submitted at a later date provided that they are submitted before the application is approved.

Eligibility criteria.

5. In addition to the qualifications and general requirements as set out in regulation 4, the minimum eligibility criteria for an application under the programme, for the applicant and any of his dependants, shall be as follows:

(a) a proper background verification of the applicant and his dependants over the age of twelve years, as the case may be;

(b) a police certificate issued by the Malta police as well as a police certificate issued by the competent authorities in the country of origin and in the country or countries of residence where the applicant has resided for a period of more than six months during the last ten years, or in exceptional cases where it is proved to the satisfaction of Identity Malta that such a certificate is not obtainable, a sworn affidavit made by the applicant and any dependants, declaring a clean criminal record;

(c) the applicant and, or any of his dependants are not individuals indicted before an International Criminal Court or who appeared at any time before an International Criminal Court, whether such persons have been found guilty or otherwise by such Court;

(d) the applicant and, or any of his dependants, shall not be persons listed with the International Criminal Police Organization (INTERPOL) at the time of application;

(e) the applicant and, or any of his dependants is not, or may not be a potential threat to national security, public policy or public health;

(f) the applicant and, or any of his dependants shall not be an individual who, at any time, had pending charges related to crimes of terrorism, money laundering, funding of terrorism, crimes against humanity, war crimes, or crimes that infringe upon such Protection of Human Rights and Fundamental Freedoms as established by the European Convention on

Human Rights, or who has been found guilty of any such crimes;

(g) the applicant and, or any of his dependants shall not be an individual who has been found guilty or has charges brought against him regarding any of the criminal offences that disturb the good order of the family, which criminal offences include, without limitation, the following:

(i) paedophilia,

(ii) defilement of minors,

(iii) rape,

(iv) violent indecent assault,

(v) inducing persons under age to prostitution, and

(vi) abduction;

(h) the applicant and, or any of his dependants shall not be an individual who at any time was found guilty, or, at the time of the application, is being interrogated and suspected, or has criminal charges brought against him for any criminal offence, other than an involuntary offence, punishable with more than one year imprisonment. The applicant shall attach with his application a sworn declaration before a commissioner for oaths, lawyer or notary public that the said information that he has provided is true and correct;

(i) where a document is required to be produced under these regulations in support of an application:

(i) such document must be an original document or if not an original, it must be a certified copy; and

(ii) the person certifying the document shall provide the full name, capacity in which the person is acting, residential or business address, telephone number and email address.

Ineligible applicants.

6. An applicant who -

(a) provides false information on his application;

(b) has a criminal record;

(c) is the subject of a criminal investigation;

(d) is a potential national security threat to Malta;

(e) is, or is likely to be, involved in any activity likely to cause disrepute to Malta; or

(f) has been denied a visa to a country with which Malta has visa-free travel arrangements and has not subsequently obtained a visa to the country that issued the denial,

shall not be approved for citizenship under the programme, unless Identity Malta is satisfied that the applicant is still worthy of being considered for approval due to special circumstances to be demonstrated by the applicant. In such case, Identity Malta shall issue a reasoned opinion as to why such applicant should still be considered for approval and shall refer such application to the Minister, who will have the sole authority to grant such approval.

Application process.

7. (1) Every application shall be presented to, and examined by, Identity Malta, either directly or through the concessionaire.

(2) Identity Malta shall either directly or through the concessionaire cause due diligence checks to be performed by one or more internationally recognized specialised due diligence agents which in any case are to be approved by Identity Malta, in respect of every applicant. Such due diligence checks shall be of a four tier nature. Identity Malta shall in any case be responsible for the proper carrying out of due diligence tests and shall also carry out due diligence tests independently of the concessionaire.

(3) Where a lawyer or notary public certifies a document to be a true copy of the original, that document must be authenticated by -

(a) an apostille in accordance with the provisions of the Hague Convention of 5th October 1961 Abolishing the Requirement for Legalisation for Foreign Public Documents, in the case of a jurisdiction that is a party to that Convention; or

(b) a validation of the certificate of the lawyer or notary public by the appropriate government department in the case of a jurisdiction that is not a party to that Convention; or

(c) a validation of the certificate by a Maltese consular or diplomatic representation in the case of a jurisdiction that is not a party to that Convention.

(4) Within ninety days of the presentation of an application for citizenship, Identity Malta shall verify that:

(a) the application has been certified as formally correct;

(b) all relevant information provided by the applicant has been verified by one or more independent due diligence agents;

(c) the background of the applicant and his dependants, if applicable, has been verified by one or more independent due diligence agents;

(d) all required due diligence fees, passport fees and bank charges fees as well as a non-refundable payment, as defined in the Schedule, towards the contribution has been paid;

(e) the source of all funds have been verified; and

(f) an appropriate risk weighting has been carried out.

(5) Within thirty days from the date of the completion of the verification referred to above, Identity Malta shall further review the application submitted to it, shall carry out appropriate further background checks, if it deems necessary, and shall notify the concessionaire and, where applicable, the Approved Agent in writing, in accordance with the Minister's instructions, that the application has been -

(a) approved in principle;

(b) refused; or

(c) delayed for the cause that it is still being processed:

Provided that where an application is approved in principle in accordance with paragraph (a), Identity Malta shall issue a Letter of Approval in Principle to the main applicant informing him that he must provide:

(a) evidence that the main applicant and dependants are covered by a global health insurance policy and they declare that they are in a position to retain such a policy indefinitely;

(b) a written undertaking to either:

(i) acquire and hold a residential immovable

property in Malta having a minimum value of three hundred and fifty thousand euro (EUR 350,000); or

(ii) take on lease a residential immovable property in Malta for a minimum annual rent of sixteen thousand euro (EUR 16,000):

Provided further that the proof required under this sub-regulation shall be provided within four months from the issue of the Letter of Approval in Principle by the submission of a contract of purchase or of lease of the said property to Identity Malta. Property purchased or taken on lease for the purposes of these regulations may not, after having been purchased or taken on lease be let or sublet but such property shall be retained by the applicant for a period of at least five years from the date of purchase or lease:

Provided further that when the applicant has purchased or taken on lease a residential immovable property in accordance with these regulations, he shall be entitled to dispose of the property or terminate the leasehold, provided that he proves to the satisfaction of Identity Malta that he has purchased or taken on lease another residential property in Malta which satisfies all the requisites set by these regulations and other relevant regulations which may be in force from time to time and commits himself to retain the said property until the expiration of the period of five years established in this sub-regulation.

(6) The main applicant shall provide a written undertaking that he will make such other investments in Malta to an amount of one hundred and fifty thousand euro (EUR 150,000), amongst others, in stocks, bonds, debentures, special purpose vehicles or other investment vehicles as may be identified from time to time by Identity Malta by means of a notice in the Gazette and to retain the said investments for a period of not less than five years:

Provided that the proof required under this sub-regulation shall be provided within four months from the issue of the Letter of Approval in Principle by the submission to Identity Malta of proof that the said investments have been made.

(7) A personal interview with an applicant shall not be a mandatory requirement but may be recommended by the concessionaire and, or considered by Identity Malta, on a case by case basis. The procedures applicable to personal interviews shall be determined by Identity Malta.

(8) Within five days of the approval in principle under sub-

regulation (5)(a) the main applicant shall be instructed to remit the contribution less the non-refundable payment already received, to be received within twenty days from such instruction. Upon receipt of the contribution less the non-refundable payment, Identity Malta shall, provided that the conditions of the Letter of Approval in Principle have been satisfied, notify the Minister to issue a certificate of naturalisation.

(9) Within two years but not less than six months from the date of application and subject to a verification that the conditions of the Letter of Approval in Principle have been satisfied as provided in sub-regulation (8), the Minister shall, provided that the conditions of these regulations are still satisfied, issue a certificate of naturalisation in the name of the applicant subject to sub-regulation (11).

(10) Within five days of issuance of such certificates, the concessionaire shall complete the necessary disbursements of the contribution to Identity Malta and shall retain the amount due to the concessionaire. Upon receipt of the contribution Identity Malta shall pay seventy per cent of the same into the National Development and Social Fund and shall pay the remainder into the Consolidated Fund.

(11) The certificate of naturalisation shall only become effective and be made available to the applicant, and the application for a passport may only proceed, after the oath of allegiance has been taken by the applicant.

Refund of fees and contributions.

8. (1) The due diligence fees and bank charges fees are not refundable.

(2) The contribution balance, once received in Malta, shall not be refundable after the letter of approval in principle has been issued.

(3) Passport fees are refundable in the case where passports have not been applied for.

Dissemination of information.

9. No person, except Identity Malta, the concessionaire or an Approved Agent shall for gain and without being duly authorised, advertise, publish or disseminate publicly through any means whatsoever any information relating to the programme:

Provided that Approved Agents shall only advertise, publish or disseminate publicly any information relating to the programme in strict compliance with guidelines issued from time to time by Identity Malta.

Deprivation of citizenship.

10. Without prejudice to the provisions of article 14 of the Act, the Minister shall in all cases be deemed to have reserved the right to

deprive a person of his Maltese citizenship granted under the programme if an applicant who has been granted citizenship fails to comply with any requirement to lease, purchase and retain property in Malta or to make and retain investments in Malta, as established by these regulations or has become a threat to national security or is involved in conduct which is seriously prejudicial to the vital interests of Malta. In such cases the procedure for deprivation of citizenship stipulated in article 14 of the Act and in any regulations made under the Act in respect of such deprivation shall *mutatis mutandis* apply.

Forms and procedural guidelines.

11. Identity Malta shall, from time to time, issue procedural guidelines to specify the operational aspects and interpretations under these regulations.

Maximum number of admissions.

12. The number of successful main applicants, excluding dependants, shall not exceed one thousand and eight hundred for the whole duration of the programme.

National Development and Social Fund.

13. (1) There shall be a fund to be known as the National Development and Social Fund into which seventy per cent of contributions received by Identity Malta under the programme shall be paid.

(2) The funds received by the National Development and Social Fund shall be used in the public interest *inter alia* for the advancement of education, research, innovation, social purposes, justice and the rule of law, employment initiatives, the environment and public health.

(3) The Fund shall have a separate legal personality and may also subsequently be established as a foundation, a trust or in the form of another legal person as may be determined by the Minister from time to time.

(4) The Fund shall be administered by a Board of Governors consisting of five members of whom one shall be the Chairman and another shall be the Deputy Chairman who shall be appointed by the Prime Minister.

(5) The Board of Governors of the Fund shall be responsible to ensure the highest level of governance of the Fund and that the funds held in the Fund are used solely for the said intended purposes.

(6) The Fund shall publish its audited accounts on an annual basis and shall report to the Minister responsible for Finance on its activities as the said Minister may require but in any case not less than once a year. The audited accounts and the annual report of the Fund shall be laid on the table of the House of Representatives by the

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Minister responsible for Finance.

(7) The Fund shall be subject to being audited by the Auditor General.

Disclosure.

14. (1) The programme shall be operated with the utmost consideration of the international obligations of Malta and of preserving Malta's good reputation as a worthy, transparent and reputable financial centre and a jurisdiction for international business.

(2) The Minister shall every year publish in the Gazette the names of all persons who during the previous twelve calendar months were granted Maltese citizenship by registration or naturalization including those persons who were granted Maltese citizenship under the programme.

Fees.

15. (1) The fees set out in the Schedule shall be paid for the matters therein respectively specified.

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(2) The provisions of the Fees Ordinance shall apply to the fees set out in the Schedule as if they were fees prescribed under the said Ordinance.

SCHEDULE

Contribution Requirements and Schedule of Fees

1. Contribution Requirements

The following contributions shall be required as a minimum to qualify for citizenship under the programme:

(a) main applicant: EUR 650,000 (six hundred and fifty thousand euro), of which a non-refundable payment of EUR 10,000 (ten thousand euro) shall be remitted as a non-refundable deposit prior to submission of the application;

(b) spouse: EUR 25,000 (twenty five thousand euro);

(c) for each and every child below 18 years of age: EUR 25,000 (twenty five thousand euro);

(d) for each and every unmarried child between 18 years of age and 26 years of age: EUR 50,000 (fifty thousand euro);

(e) for each and every dependant parent above 55 years of age: EUR 50,000 (fifty thousand euro).

2. Schedule of Fees

The following fees shall be payable under each application:

(1) Due diligence fees:

(a) main applicant: EUR 7,500 (seven thousand five hundred euro);

(b) spouse: EUR 5,000 (five thousand euro);

(c) for each and every child aged between 13 years of age and 18 years of age: EUR 3,000 (three thousand euro);

(d) for each and every dependant unmarried child between 18 years of age and 26 years of age, EUR 5,000 (five thousand euro);

(e) for each and every dependant parent above 55 years of age: EUR 5,000 (five thousand euro).

(2) Passport fees and bank charges fees:

(a) Passport: EUR 500 (five hundred euro) per person;

(b) Bank charges: EUR 200 (two hundred euro) per application.

(3) The contribution requirements and the fees stipulated in this Schedule shall apply in respect of applications and grants of citizenship under the programme notwithstanding the provisions of any other regulations.

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Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — ***Printed at the Government Printing Press on recycled paper***

Prezz/*Price*
€1.44