

L.N. 148 of 2017

**IMMIGRATION ACT
(CAP. 217)**

Family Reunification (Amendment) Regulations, 2017

IN EXERCISE of the powers conferred by article 36 of the Immigration Act, the Minister for Home Affairs and National Security has made the following regulations:-

1. (1) The title of these regulation is the Family Reunification (Amendment) Regulations, 2017, and these regulations shall be read and construed as one with the Family Reunification Regulations, hereinafter referred to as the "principal regulations".

Citation and
commencement.
S.L. 217.06

(2) These regulations shall come into force on such a date as the Minister responsible for Home Affairs and National Security may, by notice in the Gazette, establish and different dates may be so established for different provisions or different purposes of these regulations.

2. Immediately after sub-regulation (2) of regulation 4 of the principal regulations there shall be added the following new sub-regulation:

Amends
regulation 4 of
the principal
regulations.

"(3) The provisions of sub-regulation (1)(b) shall not apply in the case of children of refugees including adopted children of the sponsor where the sponsor has custody and the children are dependent on him, whereas the provisions of sub-regulation (2) shall not apply in the case of such children of whom custody is shared, notwithstanding that the other party sharing custody has given his consent."

3. In regulation 12(d) of the principal regulations the words "who will be the subject of the family reunification application." shall be substituted by the words "who will be the subject of the family reunification application:" and immediately thereafter there shall be added the following new provisos:

Amends
regulation 12 of
the principal
regulations.

"Provided that benefits or assistance payable under the Social Security Act or any other national legislation, which the sponsor is entitled to claim as special assistance in order to meet exceptional, individually determined essential living costs, tax refunds granted on the basis of his income, or other income-support measures, shall be considered as part of his stable resources:

Provided further that where the conditions concerning stable resources referred to in this sub-regulation, are not met by the sponsor, the Director shall consider all relevant circumstances and if there are justified reasons to do so, the Director shall accept the relative amount declared by the said third country national as satisfying the conditions stipulated therein."

Amends
regulation 17 of
the principal
regulations.

4. Regulation 17 of the principal regulations shall be substituted by the following:

"17. (1) The Director shall issue an autonomous residence permit to the widow/widower, to the minor child and to the child who has reached the age of majority in the event of the death of the sponsor after having obtained a residence permit for reasons of family reunification.

(2) The Director shall issue an autonomous residence permit to a person who, having entered Malta on the basis of a family reunification permit, is subsequently found to be in particularly difficult circumstances following a breakdown of the marriage and other similar difficult circumstances such as domestic violence against spouses and children, forced marriages and the forced return by the sponsor of family members to the country of origin."

Adds new Part
to the principal
regulations.

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

"Part VII

Family reunification of refugees

Family
reunification of
refugees.

23. This Part shall apply to family reunification of refugees recognised by the Refugee Commissioner in accordance with the Refugees Act.

Cap. 420.

Family
members for
the purpose of
family
reunification of
refugees.

24. (1) The Director shall authorise the entry and residence of the family members of refugees referred to in regulation 4:

Provided that if the refugee is an unaccompanied minor, the Director -

(a) shall authorise the entry and residence for the purposes of family reunification of his first-degree relatives in the direct ascending line;

(b) may authorise the entry and residence for the purposes of family reunification of his legal guardian or any other member of the family, where the refugee has no relatives in the direct ascending line or such relatives cannot be traced.

Submission of application.

25. An application for entry and residence for family members of a refugee whose family relationship pre-dated their entry into Malta, or such application was submitted at any date following their grant of refugee status, or whose family relationship was established subsequent to their entry into Malta shall be submitted in accordance with Part IV; provided that the provisions of regulation 5(2) shall not apply in their case:

Provided that where a refugee cannot provide official documentary evidence of the family relationship, the Director shall take into account other evidence and during the examination of the application, the Director shall consult with the Refugee Commissioner.

Evidence to be submitted with the application.

26. (1) When submitting the application for family reunification, the refugee whose family relationship pre-dated their entry into Malta shall not be required to provide documentary evidence as provided for in regulation 12(b), (c) and (d).

(2) The requirements of regulation 14(3) shall not apply to the family member of the said refugee, unless his family members have been authorised to join him in Malta.

Evidence to be submitted with the application in other cases.

27. (1) Refugees whose family relationships post-date the grant of refugee status or whose application for family reunification has not been submitted within a period of three months after the grant of such refugee status shall require to provide evidence that they have -

(a) accommodation regarded as normal for a comparable family in Malta and which meets the general health and safety standards in Malta; and

(b) stable and regular resources which have not been obtained by virtue of recourse to the social assistance of Malta and which shall be deemed to be sufficient if they are equivalent to the statutory minimum wage in Malta.

(2) The provisions of regulations 9 and 13 shall not be applicable with regard to refugees."

