B 138

L.N. 18 of 2020

IMMIGRATION ACT
(CAP. 217)

Residence Status of United Kingdom Nationals and their Family Members in Malta in accordance with the Agreement on the Withdrawal of the United Kingdom and Northern Ireland from the European Union and the European Atomic Energy Community Regulations, 2020

IN EXERCISE of the powers conferred upon him by article 4A of the Immigration Act, the Minister for immigration, has made the following regulations:-

PART I
Preliminary

Title and commencement.

1. (1) The title of these regulations is the Residence Status of United Kingdom nationals and their family members in accordance with the Agreement on the Withdrawal of the United Kingdom and Northern Ireland from the European Union and the European Atomic Energy Community Regulations, 2020.

(2) These regulations shall come into force on the day following the withdrawal date.

Interpretation.

2. In these Regulations, unless the context otherwise requires:

Cap 217.

"the Act" means the Immigration Act;

"Agreement" means the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community;

"beneficiary" means the United Kingdom national or his family members who qualify for the right of residence under the Agreement;

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

"Chief Executive Officer" means the person appointed as Chief Executive Officer, Identity Management and Ancillary Services in accordance to regulation 9 of the Identity Malta

S.L. 595.07.

Agency (Establishment) Order;

"family members" means those persons defined in Article 10 of Part Two of the Agreement;

"Identity Malta Agency" means the entity established by the Identity Malta Agency (Establishment) Order in accordance to regulation 3; S.L. 595.07.

"residence document" means the document referred to in Article 18 of Part Two of the Agreement;

"transition period" means the period stipulated in Article 126 of Part Four of the Agreement;

"Union law" means:

(i) the Treaty on European Union "TEU", the Treaty on the Functioning of the European Union "TFEU" and the Treaty establishing the European Atomic Energy Community "Euratom Treaty", as amended or supplemented, as well as the Treaties of Accession and the Charter of Fundamental Rights of the European Union, together referred to as "the Treaties";

(ii) the general principles of the Union's law;

(iii) the acts adopted by the institutions, bodies, offices or agencies of the Union;

(iv) the international agreements to which the Union is party and the international agreements concluded by the Member States acting on behalf of the Union;

(v) the agreements between Member States entered into in their capacity as Member States of the Union;

(vi) acts of the representatives of the Governments of the Member States meeting within the European Council or the Council of the European Union "Council";

(vii) the declarations made in the context of intergovernmental conferences which adopted the Treaties;

"United Kingdom national" means a national of the United Kingdom, as defined in the New Declaration by the Government of the United Kingdom of Great Britain and Northern Ireland of 31 December 1982 on the definition of the term "nationals"

together with Declaration No. 63 annexed to the Final Act of the intergovernmental conference which adopted the Treaty of Lisbon;

"withdrawal date" means 31 January 2020.

PART II
Residence Status

3. These regulations shall be read in conjunction with the provisions of the Agreement in respect of the right of residence in Malta of citizens of the United Kingdom and their family members.

4. In order to enjoy the rights laid down in the Agreement, beneficiaries of these regulations shall submit an application for a residence document.

Validity period of document and procedure for obtaining the residence document.

5. (1) The Chief Executive Officer shall issue an applicant for residence status with a residence document valid for a period of ten (10) years if:

(i) the person qualifies under the conditions stipulated in Part Two of the Agreement;

(ii) the person submits the application before 30 June 2021 if he is residing in Malta during the transition period or, for persons who have the right to commence residence after the end of the transition period in accordance with the Agreement, the person submits the application within three (3) months after their arrival or from the above-mentioned date, whichever is later:

Provided that a UK national and family members accompanying him, who intend to start residing in Malta during the transition period, shall only be allowed to submit such application after a period of three (3) months from the date of such arrival to Malta;

(iii) the person submits all relevant documentation;

(iv) the person has declared, by means of documentation, any past criminal convictions which appear in his criminal record in accordance with the law of the State of conviction at the time the application has been submitted;

(v) the Chief Executive Officer has ascertained that all checks have been conducted on the applicant and the

grant of the status is not contrary to public policy or public security and that there has not been any abuse of rights or fraud in relation to the application for such document.

(2) The residence document referred to in sub-regulation 1 shall be renewed on expiry by means of an application, unless the beneficiary ceases to meet the conditions set out in these regulations and the Agreement.

(3) The fees charged for the issue of a residence document shall be those prescribed in the Fees Payable for Residence permits and Employment Licences Regulations. S.L. 217.01.

PART III
Rights

6. Beneficiaries shall enjoy all the rights set out in Part Two of the Agreement. Rights.

PART IV
Cessation of Rights and Appeals

7. The beneficiary shall lose the status provided for under these regulations if, subsequent to the transition period, he has been found guilty of an offence and sentenced to imprisonment for twelve (12) months or more, in Malta or abroad. Cessation of rights.

8. A beneficiary or his family members, who have been divested of the residence status by the Chief Executive Officer in terms of these regulations, may file an appeal with the Board and the provisions of regulation 14 of the Free Movement of European Union Nationals and their Family Members Order shall apply in this respect. Right to file an appeal. S.L. 460.17

9. The residence document issued previously to a person, on the basis of his right of free movement prior to the said withdrawal date, who would qualify as a beneficiary under these regulations, shall be deemed to be valid until the residence document referred to in regulation 5 is issued in his respect. Temporary validity of residence document.

PART V
Repeal

10. The Immigration Status of British Citizens Resident in Malta on the Withdrawal Date of the United Kingdom from the European Union Regulations, are hereby being repealed. Repeal. S.L. 217.23.

VERŻJONI ELETTRONIKA

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