

**L.N. 435 of 2020**

**MALTESE CITIZENSHIP ACT  
(CAP. 188)**

**Agents (Licences) Regulations, 2020**

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

**Part I  
Preliminary**

**1.** The title of these regulations is the Agents (Licences) Regulations, 2020. Citation.

**2.** The aim of these regulations is to prescribe the requirements to license persons to act as Agents for the purposes of Citizenship by Exceptional Services to the Republic of Malta in accordance with article 10(9) of the Maltese Citizenship Act. Scope.

**3.** In these regulations, unless the context otherwise requires: Interpretation.

"Act" means the Maltese Citizenship Act; Cap. 188.

"Agency" means the Community Malta Agency established by the Community Malta Agency (Establishment) Order; L.N. 436 of 2020.

"applicant" means the person who applies for citizenship of Malta by naturalisation under these regulations and includes a dependent or a person who applies on behalf of another person;

"application" means an application made by the applicant under these regulations;

"Agent" means an agent duly licensed and certified for the purpose of the processing of applications under these regulations.

"Minister" has the same meaning attributed in the Act

"person" shall mean a physical person and where applicable mean a legal person;

"police conduct 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

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criminal record.

## Part II Agents

Approved Agent.

4. (1) The Agent shall be appointed by the applicant from persons licensed by the Agency, who shall, before introducing him to the Minister through the Agency, ensure that he is an eligible *bona fide* applicant for Maltese residence and citizenship by naturalisation.

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(2) Applicants for naturalisation for exceptional services under Part IV of the Granting of Citizenship for Exceptional Services Regulations shall make use of an Agent to introduce him to the Minister through the Agency.

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(3) The applicant shall authorise the Agent to act on his behalf in respect of all relevant applications, correspondence, submissions, filings, declarations, notifications and matters attendant thereto pursuant to the Granting of Citizenship for Exceptional Services Regulations and to perform all such other acts and deeds as may be required in accordance therewith.

(4) The Agent shall notify the Agency of each engagement received from a potential applicant in such form as the Agency may require.

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(5) An applicant under the Granting of Citizenship for Exceptional Services Regulations shall not engage more than one Agent at any one time in relation to his application, but he may change his Agent at any time.

(6) The Agency shall be notified without delay of any change of the Agent in respect of any applicant. Such notification shall be made by the authorised Agent in such form as the Agency may require.

Licence to act as  
an Agent.

5. (1) The application for a licence to act as an Agent for the purposes of these regulations shall be made with the Agency on the appropriate form together with such documents and information as the Agency may require. The Agent shall be subject to due diligence assessment by the Agency, both upon application and annually thereafter.

(2) The Agency may grant or refuse a licence to an applicant to act as an Agent. The license shall be subject to renewal every year, and the Agency may refuse to renew such licence:

Provided that both the application for the licence and the renewal thereof shall be subject to such annual fee as provided in the

## First Schedule.

6. (1) A person shall be qualified to apply for a licence to act as an Agent for the purpose of the Granting of Citizenship for Exceptional Services Regulations, if he is a public accountant or auditor, a lawyer, or a financial advisor duly licensed by a competent Authority, after attending training organised by the Agency and satisfying such other conditions and requirements as may be set out in the guidelines issued by the Agency from time to time.

Qualification to act as an Agent. L.N. 437 of 2020.

(2) An Agent may apply to act either in his personal capacity or on behalf of an audit firm, a law firm, or a financial advisory firm, being a body duly registered in accordance with the applicable law and having separate legal personality; provided that such firm, a representative by the Agent, is also authorised by the Agency to act as an Agent for the purposes of these Regulations. For the avoidance of doubt, such firms shall always be represented by a duly licensed Agent.

(3) An Agent may not act as a representative of more than one legal person.

7. (1) The Agency may grant a licence to a person to act as an Agent if it is satisfied that the applicant:

Eligibility for a licence.

(a) has a clean police conduct certificate issued by the Commissioner of Police in accordance with the Conduct Certificates Ordinance in the thereunder prescribed Form A or its equivalent;

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(b) satisfies the due diligence process carried out in respect of such person by the Agency;

(c) completes the training programme mentioned in these regulations.

(2) The person authorised to act as an Agent must:

(a) hold a Professional Indemnity Insurance policy with a reputable insurance company acceptable to the Agency, with a cover of not less than one million euro (€1,000,000) or such higher figure as the Agency may determine from time to time;

(b) be able to demonstrate to the Agency that he, or in the case of a legal person, that the group of which it forms part, has unrestricted access to a recognised, reputable due diligence database, and in either case, be able to provide the Agency, upon

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request, with the results of their due diligence procedures;

(c) submit an application form together with all requested documentation and information that the Agency may request;

(d) undertake to provide any documentation or information as may be requested by the Agency from time to time;

(e) provide the Agency a fixed address and an email address where any notifications under these regulations shall be sent, and update them in case of any change thereto; a notification by the Agency to such fixed address or the email address so provided shall be deemed to have been validly affected.

(3) The Agency shall publish a list of all licensed Agents on its website, which list shall indicate the names, contact details and other relevant particulars of such Agents.

Processing of  
applications for a  
licence.

**8.** (1) When processing an application for a license to act as Agent under these Regulations, the Agency shall, in particular, have regard to:

(a) the protection of applicants under these regulations;

(b) the protection of the reputation of Malta, taking into account Malta's international commitments; and

(c) the promotion of competition and choice.

(2) The Agency may impose on the applicant for the licence such conditions as it may deem appropriate. The Agency may, add to, vary or revoke any conditions as it may deem fit.

(3) The Agency shall notify the applicant of its decision to grant or refuse a licence, within six (6) months from the receipt of a valid application, completed in accordance with the applicable provisions of these Regulations and any applicable guidelines and accompanied by the prescribed application fee. In the case of a refusal, the notification shall also set out the reasons for such decision.

(4) Where the application is refused, the applicant may apply to the Minister to have the decision reviewed by the appeals board to be set up as provided in regulation 12.

Issuing of  
guidelines.

**9.** (1) The Agency may, from time to time, issue

guidelines to the Agents, among other things, requiring the application of standards and other obligations, for the better execution of these regulations.

(2) Such guidelines shall be binding on the Agents and their employees and/or associates. Agents shall be personally responsible to ensure that they impose the same standards, requirements and obligations applicable to them in terms of these regulations on their employees, assistants or associates.

**10. (1) An Agent shall:**

Functions of the Agents.

(a) advise and guide the applicant as to his or her responsibilities and obligations to ensure compliance with the applicable provisions of the Act, the Granting of Citizenship for Exceptional Services Regulations and any rules made thereunder;

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(b) advise and guide the applicant on all matters relating to the application, and submit to the Agency all documentation and information in relation thereto as prescribed by these regulations or any rules issued thereunder;

(c) provide the Agency, without delay, any information or explanations that the Agency may reasonably require;

(d) act as liaison between the applicant and the Agency on all matters relating to the application;

(e) notify the Agency without delay of its intention to renounce to the engagement or if such engagement is terminated by the applicant, giving full details of any facts or circumstances relevant thereto; and

(f) comply with any other conditions as the Minister may prescribe.

**(2) In discharging his obligations, the Agent shall at all times:**

(a) deal with the Agency in an open, transparent and co-operative manner;

(b) deal promptly with all enquiries raised by the Agency;

(c) notify the Agency of any change or circumstance that would or reasonably could, have a bearing on his status as an Agent, including, in the case of a legal person, any change in its

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constituted instruments, or any other matter that may materially affect his business; and

(d) disclose to the Agency in a timely manner any material information relating to himself or the firm represented by him, or the applicant, which may affect compliance with these regulations or the Guidelines issued by the Agency from time to time.

(3) Agents shall at all times:

(a) observe fully the conditions of their licence;

(b) observe fully any code of conduct or ethics, regulations, notices, policies or guidelines made or adopted from time to time by the Agency relating to the operation, implementation, marketing, promotion and advertising of these regulations or otherwise made applicable specifically to Agents, including any best practices generally recognised in the industry or established as such by such local or international professional associations or organisations as have been approved by the Agency;

(c) ensure that their staff are aware of the regulations and procedures relevant to these regulations which must be followed for the proper marketing and promotion of these regulations and for the proper discharge of their responsibilities;

(d) employ personnel with the skills, knowledge and expertise necessary for the discharge of their responsibilities and obligations under and in respect of the Act, these regulations and the Granting of Citizenship for Exceptional Services Regulations and to train them appropriately from time to time;

(e) keep the affairs of clients confidential except where disclosure of information is required by law or in terms of the guidance issued by the Agency or otherwise authorised by the person to whom the duty of confidentiality is owed;

(f) establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of all data and information, including documentation, provided to them, taking into account the nature of the information in question; and

(g) avoid any conflict of interest with their clients and always act in their clients' lawful interests.

(4) Without prejudice to any of the other provisions of these regulations and the Granting of Citizenship for Exceptional Services Regulations, if during the period of five (5) years immediately after the oath of allegiance is taken by any applicant, an Agent becomes aware of any material breach of these regulations or fraud on the part of any applicant or of any false, misleading or materially inaccurate information provided to the Agency, or of any material information that was not provided to the Agency, by any applicant or on his behalf, but in all cases with reference to the information that was provided or should have been provided during the application process, the said Agent shall immediately inform the Agency thereof.

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**11.** (1) The Agency may revoke or suspend an Agent's license where it is satisfied that:

Revocation or  
suspension of  
licence.

(a) the Agent, or any member of his staff or acting on his behalf, is in breach of these regulations or any applicable rules, guidelines or policies, or has otherwise failed to satisfy or comply with any obligation, requirement or condition to which they may be subject for the purpose of these regulations and the Granting of Citizenship for Exceptional Services Regulations;

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(b) the Agent, or any member of his staff or acting on his behalf, has supplied the Agency with information that is false, inaccurate or misleading;

(c) the Agent has ceased to act as an agent for the purpose of these regulations and the Granting of Citizenship for Exceptional Services Regulations;

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(d) the Agent is otherwise, no longer a fit and proper person to act as an Agent for the purpose of these regulations.

(2) The Agency shall inform the Agent of its decision in writing and the Agent may within fifteen (15) days request the Agency by written submissions to review its decision.

**12.** (1) Where the decision to suspend or revoke the licence is confirmed by the Agency, the applicant may apply to the Minister to have the decision of the Agency reviewed.

*Ad hoc* Board.

(2) The Minister shall appoint an *ad hoc* Board to review the Agency's decision.

(3) The Board shall be composed of a Chairperson who shall be a lawyer with seven (7) years experience, a member experienced in citizenship matters and another member appointed from amongst senior civil servants.

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(4) The Chairperson and the members of the *ad hoc* Board shall, before commencing to execute their duties, take an oath in the form set out in the Second Schedule. Such oath shall be taken before, and shall be deposited with, the Attorney General.

(5) The decisions of the *ad hoc* Board shall be final.

Revocation and  
surrender of a  
licence.

**13.** (1) When an Agent desires to surrender his licence, he shall inform the Agency at an early stage of his intention to do so. Any outstanding licence fees payable by the Agent to the Agency shall be settled without delay, while said fees already paid by the Agent to the Agency shall not be refundable. The Agency may require an Agent to delay the surrender of his licence and if the Agent intends to wind up its business, he shall do so in accordance with such conditions as may be reasonably imposed by the Agency.

(2) No such surrender of a licence shall take effect:

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(a) if it results that the Agent is still acting as such for an applicant or applicants of the Granting of Citizenship for Exceptional Services Regulations, unless the Agent provides satisfactory evidence to the Agency either that he has given notice to his clients of his intention to surrender his licence and any pending applications have been transferred to another Agent or that the applicants under these Regulations have themselves decided to use the services of another Agent; or

(b) if it appears, in the Agency's discretion, that the surrender of the licence is being done in order to avoid prosecution in terms of any applicable law or to otherwise obstruct or hinder such prosecution or that it is reasonably likely to have this effect.

Confidentiality.

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**14.** No person appointed or employed or licensed by the Agency in carrying out the provisions of these regulations or the Granting of Citizenship for Exceptional Services Regulations shall be required to produce in any court, tribunal, board or committee of inquiry any document or to divulge any matter coming under his notice in the performance of his duties under these regulations except as may be lawfully required under any applicable law or for the purpose of carrying into effect the provisions of these regulations, or for the purpose or in the course of any appeal made or proceedings instituted in accordance with these regulations or a prosecution for any offence against any of the provisions of these regulations.

Due diligence to  
be kept secret.

**15.** (1) Notwithstanding any request made to the Agency by any data subject, any officer or employee of the Agency receiving such a request at any time, including during the application or pre-



application process, shall be entitled at all times to refuse to disclose any due diligence results generated or collected about an applicant in accordance with the provisions of the Restriction of the Data Protection (Obligations and Rights) Regulations (the "Data Protection Regulations") including in particular regulation 4 thereof. The Data Protection Regulations shall apply to all requests for information that may be made in respect of matters covered by these regulations.

(2) All information obtained through the due diligence process and its sources shall be kept secret.

16. Nothing in these regulations shall prejudice the applicability of the Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and the Data Protection Act and the fundamental rights and freedoms of the data subject and the Agent shall be bound to comply with applicable data protection regulations.

Data Protection.

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17. (1) All applications filed prior to the coming in to force of these regulations shall be governed by the laws, regulations and guidelines applicable prior to the coming into force of these regulations and anything done in terms of such laws, regulations and guidelines applicable prior to the coming into force of these Regulations are deemed to be valid.

Transitory provisions.

(2) On the date of coming into force of these regulations, any natural person or legal organisation recognised by law already carrying out the services of an Approved Agent shall be obliged to conform with these regulations within three (3) months from their coming into force, provided that payment of the license fee as established in regulation 5(2) is to be paid by the Approved Agent upon the date of its next annual renewal, whenever this may be.

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First Schedule  
(regulation 5 (2))

Annual Licence Fee payable by Agent

The licence fee exclusive of any taxes payable by each Agent to the Agency shall be due annually and shall amount to:

five thousand euro (€5,000).

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Second Schedule  
(Regulation 12)

Form of Oath to be Taken by the Chairperson or a Member of the  
*ad hoc* Board

I, ..... having been  
appointed to be Chairperson/Member of the *ad hoc board* for the  
period ..... to .....,  
do swear/solemnly affirm that I will faithfully, fully, impartially and to  
the best of my ability discharge the trust and perform the duties  
devolving upon me by virtue of the said appointment.

So help me God.

.....

Chairperson/Member

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