

SUBSIDIARY LEGISLATION 217.26**MALTA PERMANENT RESIDENCE PROGRAMME
REGULATIONS**

29th March, 2021

LEGAL NOTICE 121 of 2021.

- 1.** The title of these regulations is the Malta Permanent Residence Programme Regulations. Citation.
- 2.** The scope of these regulations is to prescribe, in accordance with article 7A of the Immigration Act, the requirements and administration of the grant of permanent residency rights on the basis of investment and to regulate matters ancillary thereto. Scope.
Cap. 217.
- 3.** In these regulations, unless the context otherwise requires: Interpretation.
- "Act" means the Immigration Act; Cap. 217.
- "Agency" means the Residency Malta Agency established by the Malta Residency Visa Agency (Establishment) Order; S.L. 595.26.
- "agent" means an agent duly licensed under the Agents (Licences) Regulations; S.L. 188.05.
- "application" means, as the case may be, an application for the issuance of a certificate or for inclusion on a certificate issued in terms of these regulations;
- "appointed day" means the date on which the Agency issues a certificate to a beneficiary in terms of these regulations;
- "Approvals Board" means the Approvals Board established by the Malta Residency Visa Agency (Establishment) Order; S.L. 595.26.
- "authenticated translation" means a translation made by a recognised translator in such format as determined by the Agency from time to time;
- "beneficiary" means a third-country national who has been issued a certificate in terms of these regulations;
- "certificate" means a Residence-by-Investment Certificate issued by the Agency in accordance with regulation 10;
- "certified copy" means a photocopy of an original document certified by a duly warranted lawyer or notary public, commissioner for oaths, a Maltese consular or diplomatic officer or an officer of the Agency;
- "Commissioner" means the Information and Data Protection Commissioner as defined by the Data Protection Act; Cap 586.

"conduct certificate" means a certificate of conduct, report, clearance certificate, or statement from a national law enforcement authority or other public authority;

"contribution" means the investment requirement in the Maltese economy by payment to the Agency of the sums indicated in the First Schedule in relation to an application in terms of regulation 9 or in relation to an application for inclusion of a dependant on a certificate in terms of regulation 11, where applicable;

"dependant" means the family members of a main applicant submitting an application in terms of these regulations and shall include:

(a) the spouse of the main applicant in a monogamous marriage or in another relationship having the same or a similar status to marriage, including a civil union, domestic partnership, common law marriage, provided that for the purpose of these regulations, the term "spouse" shall be gender neutral, and saving the Minister's discretion to authorise, on a case by case basis, other relationships having a similar status as aforesaid;

(b) a child, including an adopted child, of the main applicant or of his spouse who, at the time of application, is less than eighteen (18) years of age;

(c) a child, including an adopted child, of the main applicant or of his spouse, who at the time of application is over eighteen (18) years of age, is not married, and who proves, to the satisfaction of the Agency that at the time of application he is principally dependent on the main applicant;

(d) a parent or grandparent of the main applicant or of his spouse who proves to the satisfaction of the Agency that at the time of application he is principally dependant on the main applicant; or

(e) an adult child of the main applicant or of the spouse of the main applicant who has been certified by a recognised medical professional or authority as having a disability in terms of the Equal Opportunities (Persons with Disability) Act:

Cap. 413.

S.L. 123. 79.
S.L. 123. 126.
S.L. 123. 130.

S.L. 123. 134.
S.L. 123. 141.

S.L. 123. 160.

Provided that in all cases referred to in paragraphs (a) to (e) above, he is not a beneficiary under the Residents Scheme Regulations, the Highly Qualified Persons Rules, the High Net Worth Individuals - Non-EU/EEA/Swiss Nationals Rules, the Malta Retirement Programme Rules, the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules or the Residence Programme Rules;

"donation" means a financial contribution of two thousand euro (€2,000) that shall be paid to a local registered philanthropic, cultural, sport, scientific, animal welfare or artistic non-governmental organisation or society registered with the Commissioner for Voluntary Organisations, or as otherwise approved by the Agency, before issuance of a certificate under these regulations;

"due diligence data" means any personal data pertaining to the applicant collected and processed by the Agency as part of the due diligence process, excluding the personal data collected by the Agency directly from the applicant;

"General Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of 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 (General Data Protection Regulation);

"Letter of Approval in Principle" means the letter issued by the Agency upon approval in principle of the residence-by-investment application by the main applicant as provided for in sub-regulation (3) of regulation 9;

"long-term resident" means:

- (a) a person who has long-term resident status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations; or S.L. 217. 05.
- (b) a person who applies for long-term resident status under the Status of Long-term Residents (Third Country Nationals) Regulations; S.L. 217. 05.

"main applicant" means an individual who has filed an application in terms of regulation 9;

"Minister" means the Minister responsible for immigration;

"minor" is a person who has not yet attained the age of eighteen (18) years;

"non-refundable administration fee" means the administrative fees which are payable in part at the time of submission of the application and the remaining balance which is payable after the issuance of the Letter of Approval in Principle, and which is not refundable;

"property" means any immovable property situated in Malta or Gozo and any right over such property;

"Programme" means the Malta Permanent Residence Programme set up by virtue of these regulations;

"public interest" includes the interests of public safety, the protection of public order, national security, territorial integrity, public health or morals;

"qualifying owned property" means an immovable residential property purchased or acquired by title of emphyteusis at a consideration of not less than:

(a) subject to the provisions of paragraph (b), three hundred and fifty thousand euro (€350,000) for a property situated in Malta; or

(b) three hundred thousand euro (€300,000) for a property situated in the South of Malta or Gozo:

Provided that an immovable property purchased before the date of application for a consideration which is less than the amounts indicated in paragraphs (a) or (b), and on which works have been carried out at the expense of the main applicant after the purchase, shall be considered to be a "qualifying owned property" insofar as the value of such immovable property is not less than the amounts indicated in paragraphs (a) or (b) as supported by an independent architect's detailed valuation report including a plan of the property and a description of works undertaken:

Provided further that the Agency may, in its discretion, appoint an architect to determine the value of the qualifying owned property. In such case, officers of the Agency and, or any architect appointed by the Agency for this purpose shall be granted full and free access to the qualifying owned property to the extent that such access is likely to assist in determining the value of the said property:

Provided further that where an immovable property is purchased for a consideration which is less than the amounts indicated in paragraphs (a) or (b), it shall, in all cases, be within the power of the Agency to decide whether or not the requirements of paragraphs (a) or (b) are satisfied;

"qualifying property" means a qualifying owned property or a qualifying rented property, as the case may be, which meets the general health and safety standards in force in Malta from time to time, and is normal for a comparable family in Malta, as the Agency considers appropriate for residence in its discretion;

"qualifying rented property" means a residential property taken on lease for a rent of not less than:

(a) subject to paragraph (b) below, twelve thousand euro (€12,000) per annum for a property situated in Malta; or

(b) ten thousand euro (€10,000) per annum for a

property situated in Gozo or in the south of Malta;

"south of Malta" means the areas within set boundaries as designated in the Second Schedule to the Local Government Act of the localities listed in the Second Schedule;

Cap. 363.

"third-country national" means any person who is not a citizen of the European Union within the meaning of Article 20 of the Treaty on the European Union and the Treaty on the Functioning of the European Union:

Provided that for the purposes of these regulations, EEA nationals and Swiss nationals shall not be considered to be third-country nationals.

4. (1) An individual making any application in terms of these regulations shall make use of the services of an agent.

Applications to be submitted by Agent.

(2) The main applicant shall, in such form as the Agency may require, authorise an agent to act for and on his behalf in respect of all applications, correspondence, submissions, filings, declarations, notifications and matters attendant thereto pursuant to these regulations and to perform all such other acts and deeds as may be required in accordance therewith:

Provided that the Agency may, in its discretion, where it considers appropriate, communicate directly with the main applicant.

(3) The agent shall notify the Agency of each and every authorisation received from any given main applicant in such form as the Agency may require.

(4) A main applicant shall not authorise more than one agent at any one time in relation to his application, but he may change his agent at any time.

(5) The Agency shall be notified without delay of any change of an agent in respect of any application, which notification shall be made by the main applicant through the new agent who shall deliver to the Agency the notification in such form as the Agency may require. On receipt of such notification by the Agency, the previous agent of the main applicant shall be deemed not to be authorised to represent the applicant in any further communication with the Agency. The Agency may, in its discretion, inform the previous agent about the appointment of a new agent by the applicant.

(6) Any agent who is no longer licensed in accordance with the Agents (Licences) Regulations or is otherwise unable to continue to perform his functions as an agent under these regulations shall, without delay, inform applicants that in order that their application may continue to be processed by the Agency, it is mandatory for them to engage a new agent.

S.L. 188.05.

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| Notice by Agents. | 5. Agents who wish to render services to applicants in relation to the Programme shall notify the Agency by submitting the appropriate form together with written confirmation, as the Agency considers appropriate, that they are duly licensed in accordance with the Agents (Licences) Regulations. |
| S.L. 188. 05. | |
| Register of Agents. | 6. (1) The Agency shall establish a register of all agents of the Programme who have complied with the requirements set out in regulation 5. The register shall be publicly accessible and regularly updated for consultation on the Agency's website and such register shall indicate the names, contact details and other relevant particulars of the agents. |
| | (2) Agents shall only render services to applicants in relation to the Programme if their name is indicated on the register of agents. |
| S.L. 188. 05. | (3) Any agent who shall no longer be in possession of a license in accordance with the Agents (Licences) Regulations shall be removed from the register. |
| | (4) An agent shall also be removed from the register in the circumstances referred to in sub-regulation (1) of regulation 8 or if an agent informs the Agency that he no longer wishes to render services to applicants in relation to the Programme. |
| Functions of Agents. | 7. (1) An agent shall: |
| | (a) advise and guide the applicant as to his responsibilities and obligations to ensure compliance with the applicable provisions of the Act, these regulations and any guidelines issued by the Agency; |
| | (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 as required by the Agency within the time set out in these Regulations, or as indicated by the Agency, as applicable; |
| | (c) disclose to the Agency any information or explanations that the Agency may reasonably require, within the time indicated by the Agency in the request; |
| | (d) act as liaison between the applicant and the Agency on all matters relating to the application; and |
| S.L. 188. 05. | (e) notify the Agency of any changes to his licence in terms of the Agents (Licences) Regulations or if his appointment is terminated by the main applicant, giving details of any facts or circumstances relevant thereto. |
| | (2) In discharging his obligations, an 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; and

(c) disclose to the Agency in a timely manner any material information relating to the agent or the applicant, of which he has knowledge, which may affect compliance with or constitute a breach of any of the provisions of these regulations.

(3) Agents shall at all times:

(a) abide fully by the conditions of their licence;

(b) abide fully by 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 the Programme and, 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 the Programme which must be followed for the proper marketing and promotion of the said Programme 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 Programme 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 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, if, at any stage after the issuance of a certificate in terms

of these regulations, 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, the agent shall be duty bound to immediately inform the Agency thereof.

Breach of obligations by Agents.

8. (1) Where the Agency considers that an agent, or any person acting on behalf of an agent, has contravened or defaulted upon any of the provisions of these regulations or has failed to satisfy or comply with any obligation, requirement or condition to which he may be subject, or has reasonable and sufficient grounds to consider at any time that he is no longer a fit and proper person, it may suspend or remove an agent from the register referred to in regulation 6 after giving the agent a reasonable time, which shall not in any case be less than ten days, to make submissions in writing.

(2) Without prejudice to the provisions of sub-regulation (1), should the Agency have reasonable and sufficient grounds to consider at any time that a person acting on behalf of an agent is no longer a fit and proper person, the Agency shall be empowered to demand the substitution of the said person within a time fixed by the Agency.

Application for Residence-by-Investment Certificate.

9. (1) An individual who has attained the age of eighteen (18) years, as duly represented by an agent, may apply to the Agency for the issuance of a certificate under these regulations, in such form as the Agency may require. Upon submission of the application, and in accordance with any guidelines which may be issued by the Agency from time to time, the applicant shall pay to the Agency the non-refundable administration fee of ten thousand euro (€10,000) representing part of the administrative fee payable to the Agency in accordance with the First Schedule. The Agency may immediately refuse the application if payment of the said non-refundable fee is not received.

(2) Upon submission of the application, the main applicant, as duly represented by an agent, shall present evidence of possession of assets, to the satisfaction of the Agency, having a value of not less than five hundred thousand euro (€500,000), out of which a minimum of one hundred and fifty thousand euro (€150,000) shall be in the form of financial assets, as the Agency considers appropriate in its sole discretion.

(3) Where it is established that the main applicant qualifies as a beneficiary, the Agency shall determine in writing that such individual is approved in principle to be issued a certificate under these regulations, and the Agency shall issue a Letter of Approval in Principle to the applicant to this effect.

(4) Within two (2) months from the date of issue of the Letter of Approval in Principle the main applicant, as duly represented by an agent, shall pay to the Agency the balance of the non-refundable administration fee indicated in First Schedule, and within eight (8) months from the date of issue of the Letter of Approval in Principle the main applicant, as duly represented by an agent, shall:

(a) pay to the Agency the contribution indicated in the First Schedule;

(b) present the necessary title to a qualifying property;

(c) make a donation and provide evidence thereof to the Agency;

(d) present a sickness insurance policy in respect of all risks normally covered for Maltese nationals; and

(e) present any other document required in accordance with these regulations:

Provided that if the main applicant is in default, the Agency may take all those measures or actions which it deems necessary in its sole discretion, including the rejection of the application and, or the revocation of the Letter of Approval in Principle issued in terms of sub-regulation (3):

Provided further that the Agency may, in its sole discretion, extend the above-mentioned time-limit upon good cause being shown.

(5) No certificate shall be issued in terms of these regulations, even in the case that the Agency has issued the Letter of Approval in Principle, unless all applicable requirements and conditions in terms of these regulations are satisfied to the full satisfaction of the Agency.

10. (1) A certificate issued by the Agency in accordance with these regulations shall entitle the beneficiary of such a certificate and the dependants included on the certificate, to reside, settle or stay indefinitely in Malta, provided that:

Rights conferred
by Certificate.

(a) the beneficiary of such a certificate and his approved dependants adhere to all the obligations and conditions set out in these regulations; and

(b) the said certificate shall not, by itself, entitle the holder thereof to any other rights mentioned in the Immigration Regulations.

S.L. 217. 04.

(2) The beneficiary of such a certificate and, or his approved

dependants shall cease to benefit from the certificate and all benefits conferred by the certificate in the circumstances referred to in regulation 17.

(3) The Agency shall monitor adherence by the beneficiary and his approved dependants to all the obligations and conditions set out in these Regulations annually for the first five years from its issue, and thereafter whenever the Agency deems it opportune in its sole discretion.

(4) For the purposes of these regulations, a certificate issued under these regulations shall be deemed to constitute a permit issued in terms of article 7A of the Act.

Dependants.

11. (1) When applying for a certificate in accordance with regulation 9, the main applicant, as duly represented by an agent, may apply to the Agency, in such form as the Agency may require, to have included on the certificate issued under these Regulations, any person falling within the scope of the definition "dependant" in regulation 3, subject to a successful due diligence check in respect of each dependant:

Provided that where the dependant is the parent or grandparent of the main applicant or of his spouse, there shall be paid to the Agency an additional contribution as indicated in the First Schedule.

(2) The beneficiary of a certificate issued under these regulations as duly represented by an agent may apply to the Agency, in such form as the Agency may require, to include on a certificate issued under these regulations, any dependant referred to in the definition "dependant" in regulation 3, subject to a successful due diligence check in respect of each dependant and payment to the Agency of a contribution as specified in the First Schedule.

(3) The beneficiary of a certificate issued under these Regulations as duly represented by an agent may also apply to the Agency, in such form as the Agency may require, to include on a certificate which has been issued under these regulations the spouse of a dependent child who is included on the certificate or in respect of whom an application for inclusion on a certificate has also been made, subject to a successful due diligence check in respect of such spouse and payment to the Agency of a contribution as defined in the First Schedule.

(4) The beneficiary of a certificate issued under these regulations as duly represented by an agent may also apply to the Agency, in such form as the Agency may require, to include on a certificate which has been issued under these regulations, the minor child of a previously approved dependent child falling within the scope of paragraphs (b) or (c) of the definition "dependant" in regulation 3 or

the spouse of such a dependant who, in both cases, is already included on the certificate, subject to a successful due diligence check in respect of such dependant and payment to the Agency of a contribution as defined in the First Schedule.

(5) The beneficiary of a certificate issued under these regulations as duly represented by an agent may also apply to the Agency, in such form as the Agency may require, to include on a certificate which has been issued under these regulations, the spouse or minor child of a previously approved dependant falling within the scope of paragraph (e) of the definition "dependant" in regulation 3, subject to a successful due diligence check.

(6) Where the Agency accepts an application to include an individual on the beneficiary's certificate in terms of sub-regulations (3) to (5), such individuals shall be deemed to be dependants and shall be bound by all the obligations applicable to dependants in terms of these regulations.

(7) The contribution payable to the Agency in terms of sub-regulations (2), (3), (4) and (5) is non-refundable and has to be paid upon application, and as determined by any guidelines that the Agency may issue from time to time.

12. (1) Applications for a certificate shall be accompanied by:

Qualifications and general requirements.

(a) a conduct certificate, in original format, in relation to the main applicant and any dependant who is older than fourteen (14) years of age at the time of application, issued by the competent authorities in the country of origin and in the country or countries of residence where such a person would have resided for a period of more than six (6) months during the last ten (10) years. In exceptional cases, where it is proved to the satisfaction of the Agency that such a certificate is not obtainable, a sworn affidavit made by the main applicant, either on his own behalf or on behalf of each of his minor dependants who are over fourteen (14) years of age, and any adult dependant, on his own behalf, declaring a clean criminal record may be accepted. Upon good cause being shown, the Agency may allow that such certificates be submitted at a later date but in any case before the application is approved in principle;

(b) evidence, through a 'know your customer' basis, due diligence processes, carried out by the agent that there is no *a priori* evidence that the main applicant and his dependants are not fit and proper persons;

(c) an undertaking to purchase or lease an immovable property in Malta which property is deemed to be a qualifying property in accordance with these regulations:

Provided that a qualifying property purchased by the main applicant may be considered as part of the evidence of possession of assets referred to in sub-regulation (2) of regulation 9;

(d) an undertaking to remit the total of the required contribution payable in accordance with these regulations;

(e) an undertaking to make the donation required in terms of these regulations;

(f) confirmation to the satisfaction of the Agency that the main applicant and his dependants are not suffering from any serious illness or contagious disease and that they are otherwise in good health and will not be, in terms of the medical review carried out by the Agency, of an unreasonable burden on the national health system; and

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

(3) Application forms and other accompanying documents shall be completed in English. If the original language of the accompanying documents is not English, the documents shall be accompanied by an authenticated translation into English.

(4) The main applicant shall provide an affidavit confirming that he supports each dependant who is over eighteen (18) years old, except for the spouse.

(5) The following conditions apply to minor dependants:

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

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

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

Eligibility.

13. (1) In addition to the qualifications and general requirements as set out in regulation 12, the minimum eligibility criteria for an application under these regulations, for the main applicant and any of his dependants, shall be as follows:

(a) a proper background verification of the main

applicant and his dependants over the age of fourteen (14) years, as the case may be;

(b) the main applicant and, or any of his dependants is not an individual indicted before an international criminal court or who appeared at any time before an international criminal court, whether such person has been found guilty or otherwise by such court;

(c) the main applicant and, or any of his dependants, is not a person listed with the International Criminal Police Organization (INTERPOL) or EUROPOL;

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

(e) the main applicant and, or any of his dependants, shall not be an individual who, at any time, had pending charges or who has been found guilty of any crimes related to:

(i) crimes of terrorism,

(ii) money laundering,

(iii) funding of terrorism,

(iv) crimes against humanity,

(v) war crimes,

(vi) crimes that infringe upon such Protection of Human Rights and Fundamental Freedoms as established by the European Convention on Human Rights;

(f) the main applicant and, or any of his dependants, is not 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;

(g) the main applicant and, or any of his dependants is not 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 (1) year imprisonment. The main 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;

(h) the main applicant and, or any of his dependants is not named or listed in international sanctions applying restrictive measures that the Agency is bound by law, or has opted, to follow;

(i) the main applicant and, or any of his dependants shall not have had a previous application for a certificate or an application for Maltese citizenship refused;

(j) the main applicant and, or any of his dependants shall not have previously ceased to benefit from a certificate in terms of regulation 17;

(k) the main applicant and, or any of his dependants is not involved or likely to be involved in any activity which may cause disrepute to the Republic of Malta;

(l) the application is not deemed to be against the public interest.

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

(a) unless expressly stated that an original is required, such document must be an original document or if not an original, it must be a certified copy of the original; and

(b) 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.

Eligibility
assessment.

14. (1) The Agency shall administer the due diligence and verification process of the eligibility of the main applicant and of any dependants.

(2) The Agency shall cause due diligence checks to be performed also by third parties including one (1) or more internationally recognised specialised due diligence service providers, in respect of every main applicant and his dependants. Such due diligence checks shall be as the Agency shall determine from time to time and may include security checks to be carried out by law enforcement authorities in line with the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties) Regulations, who may use available tools for such purposes, as well as all other checks as regards money laundering and terrorism financing risks by the pertinent authorities having the necessary authority to conduct such checks.

S.L. 586. 08.

(3) The Agency shall inform the Approvals Board of its due diligence findings and seek the authorisation of the Approvals Board prior to the issue of a certificate.

15. (1) For the purposes of these regulations, and without prejudice to any rights and duties emanating from the Immigration Regulations and unless any individual is already in possession of a residence document or a residence permit issued under the Immigration Regulations, an individual shall be deemed to be a beneficiary of a certificate issued under these regulations only if he, as from the appointed day and throughout the entire duration and persistence of the certificate, proves to the satisfaction of the Agency that:

Further conditions
to be satisfied.
S.L. 217. 04.

(a) he is a third-country national and is not a Maltese, EEA or Swiss national;

(b) he is not a person who benefits under the Residents Scheme Regulations, the Highly Qualified Persons Rules, the High Net Worth Individuals - Non-EU/EEA/Swiss Nationals Rules, the Malta Retirement Programme Rules, the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules or the Residence Programme Rules;

S.L. 123. 79.
S.L. 123. 126.
S.L. 123. 130.

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S.L. 123. 141.

S.L. 123. 160.

(c) he holds a qualifying property for residence for a minimum five (5) year period from the appointed day, and after the lapse of five (5) years from the appointed day holds a residential property in Malta or Gozo in ownership or by title of lease or emphyteusis:

Provided that where the qualifying property held by the beneficiary consists of qualifying owned property, the beneficiary may, with the Agency's consent and subject to such conditions as the Agency may impose, replace the said qualifying owned property with another qualifying owned property purchased by the beneficiary. Where the qualifying

property held by the beneficiary consists of qualifying rented property, the beneficiary may, with the Agency's consent and subject to such conditions as the Agency may impose, replace the said qualifying rented property with another qualifying rented property taken on lease by the beneficiary or with a qualifying owned property purchased by the beneficiary:

Provided further that the Agency may carry out spot checks at its discretion to verify whether the property satisfies the definition "qualifying property" in regulation 3, and access to the property shall be granted to the Agency's officers, employees or third party appointees for such purposes;

(d) without prejudice to any other provision of these regulations, he is in receipt of stable and regular resources which are sufficient to maintain himself and his dependants without recourse to the social assistance system of Malta.

(e) he is, and his dependants are, in possession of a valid travel document;

(f) he is in possession of sickness insurance in respect of all risks normally covered for Maltese nationals for himself and his dependants as the Agency considers appropriate from time to time; and

(g) he is in possession of the capital referred to in sub-regulation (2) of regulation 9 for a period of five (5) years commencing from the appointed day.

S.L. 217. 04.

(2) For the purposes of these regulations, and without prejudice to any rights and duties emanating from the Immigration Regulations and unless any individual is already in possession of a residence document or a residence permit issued under the Immigration Regulations, an individual shall be deemed to be an approved dependant as included on the certificate issued under these regulations only if he, as from the appointed day and throughout the entire duration and persistence of the certificate, proves to the satisfaction of the Agency that:

(a) he is a third country national and is not a Maltese, EEA or Swiss national;

S.L. 123. 79.
S.L. 123. 126.
S.L. 123. 130.
S.L. 123. 134.
S.L. 123. 141.
S.L. 123. 160.

(b) he is not a person who benefits under Residents Scheme Regulations, the Highly Qualified Persons Rules, the High Net Worth Individuals - Non-EU/EEA/Swiss Nationals Rules, the Malta Retirement Programme Rules, the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules or the Residence Programme Rules;

(c) he is in possession of sickness insurance in respect

of all risks normally covered for Maltese nationals.

16. (1) Following the death of a beneficiary, in exceptional circumstances, the Agency shall be empowered to determine that the certificate issued to the said beneficiary shall be issued to an approved dependant of that deceased beneficiary in such form and subject to such conditions as the Agency may impose in its discretion. Such certificate shall be issued once the said dependant provides evidence to the Agency that the conditions imposed by the Agency and all the requirements of these regulations are satisfied in such manner as the Agency may determine.

Death of a beneficiary.

(2) Where a certificate is issued to a dependant of a deceased beneficiary in accordance with sub-regulation (1), the provisions of sub regulations (2), (3), (4) and (5) of regulation 11 shall not apply.

17. (1) A beneficiary and all approved dependants included on a certificate shall cease to benefit from a certificate issued under these regulations if the beneficiary becomes a Maltese, EEA or Swiss national.

Cessation of certificate.

(2) The Agency shall determine that a beneficiary and all persons included on the certificate shall cease to benefit from a certificate issued under these regulations in any of the following circumstances:

(a) if, at any time, after the appointed day, the beneficiary does not satisfy the conditions set out in regulation 15;

(b) if, at any time after the appointed day, the beneficiary no longer remains eligible in terms of regulation 13;

(c) if it transpires that false, misleading or materially inaccurate information was provided to, or material facts omitted or concealed from the Agency during the course of the application process;

(d) if, at any time, after the appointed day, such individual does not fulfil any commitment or condition contemplated in these Regulations, including in particular a commitment referred to in regulation 12;

(e) if the individual's stay is not in the public interest or the individual is involved in conduct which is seriously prejudicial to the vital interests of Malta;

(f) if the individual has shown himself by act or speech to be disloyal or disaffected towards the President or the Republic of Malta.

(3) Where the Agency determines that a beneficiary shall

cease to benefit from a certificate, the beneficiary shall return the certificate to the Agency within a period of one (1) month from the notification of such determination to the agent of the beneficiary.

(4) The Agency shall determine that a person included on the certificate shall cease to benefit from a certificate issued under these regulations, and shall be removed from the certificate, in any of the following circumstances:

(a) if, at any time after the appointed day, the individual no longer remains eligible for inclusion on a certificate;

(b) if it transpires that false, misleading or materially inaccurate information was provided to, or material facts omitted or concealed from the Agency during the course of the application process;

(c) if, at any time, after the appointed day, such individual does not fulfil any commitment or condition contemplated in these regulations;

(d) if the individual's stay is not in the public interest or the individual is involved in conduct which is seriously prejudicial to the vital interests of Malta; and

(e) if the individual has shown himself by act or speech to be disloyal or disaffected towards the President or the Republic of Malta.

(5) Where the Agency determines that a person included on the certificate shall cease to benefit from a certificate, the beneficiary shall return the certificate to the Agency within a period of one (1) month from the notification of such determination to the agent of the beneficiary, and the Agency shall issue a correction thereto.

(6) Without prejudice to sub-regulations (2) and (4), a beneficiary or a person included on the certificate who is aware of any of the reasons specified in sub-regulations (2) and (4) shall notify the Agency of such event by not later than four (4) weeks from the date when he becomes aware of such event. This notification shall be made on such form as may be required by the Agency.

(7) The Agency shall, in its discretion, have the power to condone any failure to satisfy any one of the conditions in sub-regulations (2) and (4) if:

(a) such failure was due to unforeseen circumstances which are beyond the control of the individual;

(b) such individual notifies the Agency of such failure; and

(c) such individual has exercised his best efforts to remedy the failure.

(8) A beneficiary and all persons included on the certificate shall, with immediate effect, cease to benefit from a certificate issued in terms of these regulations if the beneficiary notifies the Agency of his intention not to remain a beneficiary in terms of these regulations on such form as the Agency may require.

(9) An individual included on a certificate issued to a beneficiary shall, with immediate effect, cease to benefit from a certificate issued in terms of these regulations if the beneficiary or such person notifies the Agency of his intention not to benefit from the certificate in terms of these regulations on such form as the Agency may require.

18. (1) Without prejudice and in addition to other powers and rights of the Agency in terms of these regulations, for the purpose of ascertaining an individual's entitlement to rights which may be acquired or are acquired under these regulations and ensuring the proper application of these regulations, the Agency may require the individual or the agent to produce, such information and documents, including certifications and declarations, and, or to reply to such questions, as the Agency may consider necessary, within the time indicated by the Agency in its request:

Request for information.

Provided that if such information, documents or replies are not provided or are insufficiently provided within the time indicated by the Agency in its request, the Agency may take all those measures or actions which it deems necessary at its sole discretion, including rejection of the application, revocation of its Letter of Approval in Principle, or a determination that an individual shall cease to benefit from a certificate issued in terms of these regulations, as the case may be. The Agency may however, at its sole discretion, extend the time-limit upon good cause being shown.

(2) Notwithstanding any other provision in any law, the Agency may exchange information that is in its possession concerning:

- (a) a main applicant;
- (b) dependants;
- (c) a beneficiary; or
- (d) an individual that has long-term residence status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations:

S.L. 217. 05.

S.L. 217. 05. Provided that such information may be exchanged only for the purposes of these Regulations and for the purposes of the long-term residence status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations.

Agency's
discretion and
powers.

19. (1) Any decision, determination or verification to be made by the Agency under these Regulations shall be made at that Agency's absolute discretion and any such decision, determination or verification shall be final and shall not be subject to an appeal.

(2) The Agency shall have the right to delegate any of its functions under these regulations, save for the Agency's functions arising under regulation 10, to any other authority duly constituted under any other law capable of exercising such functions.

(3) The Agency shall have the power to request information from competent authorities, including law enforcement authorities, as part of the due diligence process on the applicant.

(4) The Agency may make guidelines for the better implementation of any matter covered by these regulations.

(5) The Agency may, in its discretion, extend any time limit fixed by these regulations upon good cause being shown.

Data protection.
Cap. 586.

20. (1) Nothing in these regulations shall prejudice the applicability of the General Data Protection Regulation and the Data Protection Act and the fundamental rights and freedoms of the data subject.

(2) Where the Agency in its capacity of data controller processes personal data on the applicant or the beneficiary and, or dependants under the Programme, it shall:

(a) comply with the principles relating to processing of personal data pursuant to Article 5(1) of the General Data Protection Regulation;

(b) apply appropriate technical and organisational measures to ensure a level of security appropriate to the risk posed, and prevent abuse or unlawful access to or transfer of, personal data pertaining to the main applicant or the beneficiary, and, or dependants.

(3) The controller shall retain the personal data of the beneficiary and, or his dependants, as long as the certificate issued to the beneficiary and dependants, if any, pursuant to these regulations remains in force:

Provided that where the application is refused, or where the certificate is revoked, such data shall be retained for the purposes of these Regulations for a period of five (5) years from the date of the

refusal of the application or the revocation of the certificate:

Provided further that for the purpose of regulation 13(1)(j), the Agency may retain the minimum details identifying a beneficiary and, or his dependants whose application has been refused or revoked, for an additional period of five (5) years.

(4) Where the Agency pursuant to its functions under these Regulations processes information in relation to due diligence data, the Agency may restrict the rights and obligations provided for in Articles 14 to 20 and Article 34 of the General Data Protection Regulation in accordance with Article 23 of the General Data Protection Regulation:

Provided that such personal data shall only be restricted in case the Agency refuses the application or revokes the certificate:

Provided further that the Agency's Data Protection Officer designated pursuant to Article 37 of the General Data Protection Regulation shall be consulted as appropriate in a timely manner in the entire process of applying the restriction.

(5) The restrictions under sub-regulation (4) shall only apply in the event that these restrictions are considered as a necessary and proportionate measure to protect the sources and confidentiality of legally privileged information collected in the course of carrying out the due diligence process and to:

(a) safeguard important objectives of general public interest of the Republic of Malta; or

(b) protect national and public security and the obligations of the Agency connected with its functions pursuant to these regulations.

(6) The Agency shall apply the restrictions referred to in sub-regulation (4) for as long as the reasons justifying them remain applicable following a necessity and proportionality test. The reasons justifying the restrictions shall be documented and made available to the Commissioner when and as required.

(7) Where the reasons for a restriction no longer apply, the Agency shall lift the restriction and inform the data subject concerned accordingly and comply with the rights and obligations provided for in Articles 14 to 20 and Article 34 of the General Data Protection Regulation.

(8) The Agency shall review the application of the restrictions referred to in this regulation and depending on the outcome of such review inform the data subject accordingly.

(9) For the safeguard of the rights and freedoms of the data subject, the following conditions and safeguards shall apply to

documents, reports and other personal data processed throughout the due diligence process subject to the restrictions in terms of sub-regulation (4):

(a) access to due diligence data by competent authorities other than the Agency shall not be permitted unless provided for by law;

(b) the Agency shall maintain an audit trail record of access to due diligence data by competent authorities, containing at least the date of the access, the identifiable details of the Agency's officer accessing the data, the requesting competent authority and the purpose for the access. Such audit trail record shall be kept for as long as the due diligence data is stored in line with sub-regulation (3);

(c) the Agency's Data Protection Officer shall keep a register to record the restrictions applied in relation to the requests made by the applicants. The register shall include the details of the applicants, the right requested to be exercised that was restricted and the purpose for such restriction. Restriction of rights in terms of Article 34 of the General Data Protection Regulation, shall also be recorded in the register; and

(d) the applicants in their capacity as data subjects shall be informed of the application of restrictions to their rights by informing the data subject concerned in reply to the request to exercise any of the rights which are being restricted in terms of these regulations, unless this may be prejudicial to the purpose of the restriction:

Provided that the Agency justifies the prejudice claimed by the Agency to the Commissioner when and where requested.

Confidentiality.

21. (1) Other than for the proper discharge of their duties or functions under these regulations and in terms of the Act, including for the purposes of the due diligence checks referred to in regulation 14, or as may be otherwise provided in any other law, the Agency, and the officers and employees of the Agency, shall treat all information furnished in accordance with these regulations as confidential and such information shall be solely used by the Agency for the purpose of these regulations. The officers and employees of the Agency shall at all times treat any information acquired in the discharge of their duties as confidential, and shall not, directly or indirectly, disclose such information to any other person, except with the consent of the person to whom the information relates. For the purposes of this sub-regulation, "employees" and "officials" shall include former employees and officials.

(2) No person appointed or employed by the Agency in carrying out the provisions of these 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 a prosecution for any offence against any of the provisions of these regulations.

(3) Notwithstanding the provisions of the other sub-regulations of this regulation, upon a lawful request under any applicable law, the Agency shall have the power to furnish information obtained for any of the purposes of these regulations to the Commissioner for Revenue, the Financial Intelligence Analysis Unit, the Malta Financial Services Authority, the Commissioner of Police and other authority legally empowered to request such information.

(4) Notwithstanding the provisions of the other sub-regulations of this regulation, the Agency may also, pursuant to a written request, disclose information to local or overseas enforcement or regulatory authorities or police agencies, or a network or grouping comprising such local or overseas enforcement or regulatory authorities or police agencies, or both, for the purpose of preventing, detecting, investigating or prosecuting the commission of acts or omissions that amount to or are likely to amount to a criminal offence under any applicable law or to an offence or breach of a regulatory nature, whether in Malta or overseas.

22. Without prejudice to regulations 20 and 21, all information obtained through the due diligence process and its sources shall be kept secret.

Due diligence to be kept secret.

23. Any person may make a protected disclosure to the Agency:

Protected disclosures.

Provided that a disclosure shall be deemed to be a protected disclosure if it is made in good faith, if the person making the disclosure reasonably believes, at the time of making the disclosure based on the information he has at that moment, that the information disclosed and any allegation contained in it are substantially true and that the information disclosed tends to show an improper practice being committed by a main applicant, a dependant or an agent and the disclosure is not made for purposes of personal gain:

Provided further that disclosures shall be made on the grounds of bribery, corrupt practices and improper practice of a main applicant or any dependants.

24. (1) The fees set out in the First Schedule, as the case may be, shall be paid for the matters therein respectively specified.

Fees.

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

Cap. 35.

the said Ordinance.

Promotional
support payable to
Agents.

25. (1) The Agency may make payments for promotional support to agents, based on the date of submission of each successful application in respect of which a certificate is issued, in accordance with criteria made by the Agency and with the approval of the Minister. Agents whose name is indicated on the register of agents referred to in regulation 6 shall be notified of the applicable criteria for each calendar year, at least two (2) weeks before the end of the previous calendar year:

Provided that the applicable criteria for the period from the entry into force of these regulations until 31st December 2021, shall be notified to agents by the Agency upon their registration in the register referred to in regulation 6.

(2) No payments shall be made to an agent if he has been removed from the register referred to in sub-regulation (1) of regulation 6 in the circumstances referred to in sub-regulation (3) of regulation 6 or in sub-regulation (1) of regulation 8 or for such time as his licence may be suspended.

(3) Save for the provisions of sub-regulation (1) no further or additional fees shall be due by the Agency to agents.

Transitory
provision.
S.L. 217. 18.

26. (1) Certificates issued in terms of the Malta Residence and Visa Programme Regulations and the holders of certificates issued in terms of the Malta Residence and Visa Programme Regulations shall remain subject to and governed by the same Malta Residence and Visa Programme Regulations.

S.L. 217. 18.

(2) Applications filed under the Malta Residence and Visa Programme Regulations which are still pending prior to the date of coming into force of these regulations shall remain subject to and governed by the same Malta Residence and Visa Programme Regulations. For a period of twenty-four (24) months from the coming into force of these regulations, applicants who have a pending application for a certificate in terms of the Malta Residence and Visa Programme Regulations may not apply for a certificate under these regulations. The foregoing prohibition shall apply even if the applicant withdraws his application under the Malta Residence and Visa Programme Regulations.

S.L. 217. 18.

(3) Certificates issued consequent to applications filed under the Malta Residence and Visa Programme Regulations shall remain subject to and governed by the Malta Residence and Visa Programme Regulations.

S.L. 217. 18.

(4) As from 29th March 2021, all new applications shall be governed by these regulations and no new application for a certificate may be made under the Malta Residence and Visa Programme Regulations.

FIRST SCHEDULE
(regulations 9 and 11)

Administrative fees and contributions Schedule

The following shall be the non-refundable administration fee requirement to qualify for residency under these regulations

(i) for the purposes of regulation 9:

- a non-refundable administration fee of forty thousand euro (€40,000), ten thousand euro (€10,000) of which need to be paid within one (1) month from the submission of the application, with the remaining thirty thousand euro (€30,000) payable within two (2) months from the issuance of the Letter of Approval in Principle;

(ii) The following shall be the contribution requirement to qualify for residency under these regulations:

For the purposes of regulation 9:

- a contribution of twenty-eight thousand euro (€28,000), and where applicable an additional, seven thousand five hundred euro (€7,500) for every parent or grandparent of the main applicant or of the spouse, where the necessary title to a qualifying property is a qualifying owned property payable within eight (8) months from the issuance of the Letter of Approval in Principle;

- a contribution of fifty-eight thousand euro (€58,000), and where applicable an additional, seven thousand five hundred euro (€7,500) for every parent or grandparent of the main applicant or of the spouse, where the necessary title to a qualifying property is a qualifying rented property payable within eight (8) months from the issuance of the Letter of Approval in Principle;

For the purposes of regulation 11(2), (3), (4) and (5):

- seven thousand five hundred euro (€7,500) for the spouse of the main applicant;

- seven thousand five hundred euro (€7,500) per parent or grandparent of the main applicant or of the spouse;

- seven thousand five hundred euro (€7,500) for the spouse of a dependant;

- five thousand euro (€5,000) for each and every other person who may be included on a certificate:

Provided that each and every dependant as is referred to in paragraphs (b) and (e) of the definition "dependant" in regulation 3 shall not be subject to the payment of any contribution.

SECOND SCHEDULE

(regulation 3)

The localities for the purposes of the definition of "south of Malta" are the following:

Birżebbuġa

Bormla (Città Cospicua)

Il-Fgura

Hal Ghaxaq

Il-Gudja

Il-Kalkara

Hal Luqa

Il-Marsa

Marsaskala

Marsaxlokk

L-Imqabba

Paola

Il-Qrendi

Hal Safi

Santa Luċija

L-Isla (Città Invicta)

Is-Sigġiewi (Città Ferdinand)

Hal Tarxien

Il-Birgu (Città Vittoriosa)

Ix-Xgħajra

Haż-Żabbar (Città Hompesch)

Iż-Żejtun (Città Beland)

Iż-Żurrieq