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L.N. 198 of 2026

**INTERNATIONAL PROTECTION ACT
(CAP. 420)**

Reception of Asylum Seekers Regulations, 2026

IN EXERCISE of the powers conferred by article 25 of the International Protection Act, the Minister responsible for immigration has made the following regulations:-

Citation and
scope.

1. (1) The title of these regulations is the Reception of Asylum Seekers Regulations, 2026.

(2) The scope of these regulations is to transpose the provisions of Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection (recast).

**Part I
Preliminary**

Interpretation.

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

"absconding" means the action by which an applicant does not remain available to the competent administrative or judicial authorities, such as by leaving the territory of Malta without permission from the competent authorities, for reasons which are not beyond the applicant's control;

"accommodation centre" means any place used for the collective housing of applicants;

Cap. 420.

"Act" means the International Protection Act;

S.L. 217.11.

"Agency for the Welfare of Asylum Seekers" means the Agency established by regulation 3 of the Agency for the Welfare of Asylum Seekers Regulations;

"applicant" means a third-country national or stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

"applicant with special reception needs" means an applicant requiring special conditions or guarantees in order to benefit from the rights and comply with the obligations provided for in these regulations;

"application for international protection" means a request for protection made to Malta by a third-country national or a stateless person who can be understood to be seeking refugee status or subsidiary protection status;

"Charter of Fundamental Rights" means the Charter of Fundamental Rights of the European Union;

"daily expenses allowance" means an allowance provided periodically to applicants to enable them to enjoy a minimum degree of autonomy in their daily lives, whether provided as a monetary amount, in vouchers, as benefits in kind, or as a combination thereof, provided that such allowance includes a monetary amount;

"detention" means the confinement of an applicant in a particular place in Malta in accordance with these regulations, where the applicant is deprived of his freedom of movement;

"Detention Services Agency" means the Agency established by article 3 of the Detention Service (Establishment) Order; S.L. 595.45.

"family members" means, insofar as the family already existed before the applicant arrived in the territory of Malta, the following members of the applicant's family who are present in the territory of Malta during the procedure for international protection:

(a) the spouse of the applicant or his or her unmarried partner in a civil union or union of equivalent status in accordance with the Civil Unions Act; Cap. 530.

(b) the minor children or dependent adult children of the couples referred to in paragraph (a), or of the applicant, provided that they are unmarried and regardless of whether they were born in or out of wedlock or were adopted as provided in article 113 of the Civil Code; Cap. 16.

(c) the father, mother or other adult responsible for the applicant, including an adult sibling, where the applicant is a minor and unmarried:

Provided that for the purposes of paragraphs (b) and (c), a minor is considered unmarried provided that, on the basis of an individual assessment, the minor's marriage would not be in accordance with articles 3, 4, 5 and 6 of the Marriage Act, Cap. 255. having regard, in particular, to the legal age of marriage;

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S.L. 595.07. "Identità" means the Agency established by article 3 of the Identity Malta Agency (Establishment) Order;

S.L. 595.36. "International Protection Agency" means the Agency established by article 3 of the International Protection Agency (Establishment) Order;

"Jobsplus" shall have the same meaning as assigned to it in article 2 of the Employment and Training Services Act;

"material reception conditions" means reception conditions that include housing, food, clothing and personal hygiene products, provided in kind, as financial allowances, in vouchers, or as a combination thereof, as well as daily expenses allowance;

"minor" means a third-country national or stateless person below the age of eighteen (18) years;

Cap. 217. "Principal Immigration Officer" shall have the same meaning as assigned to it in the Immigration Act;

"reception conditions" means the full set of measures that Malta grants to applicants in accordance with these regulations;

"Regulation (EU) 2024/1348" means Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU;"representative" means a natural person or an organisation, including a public authority, appointed by the competent authorities, with the necessary skills and expertise, including in relation to the treatment of and specific needs of minors, to represent, assist and act on behalf of an unaccompanied minor, as appropriate, in order to safeguard the best interests and general well-being of such minor, and to enable the said minor may benefit from the rights and comply with the obligations provided for in these regulations;

S.L. 217.12. "risk of absconding" means the existence of specific reasons and circumstances in an individual case, which are based on objective criteria as provided in regulation 2 of the Common Standards and Procedures for returning Illegally Staying Third-Country Nationals Regulations;

"unaccompanied minor" means a minor who arrives in the territory of Malta unaccompanied by an adult responsible for him, and for as long as that minor is not effectively taken into the care of such an adult, including a minor who is left

unaccompanied after he has entered the territory of Malta;

"UNHCR" means the Office of the United Nations High Commissioner for Refugees established by the United Nations General Assembly;

"United Nations High Commissioner for Refugees" means the High Commissioner of the United Nations responsible for refugees as established by the United Nations General Assembly.

3. (1) These regulations shall apply to: Applicability.

(a) all third country nationals and stateless persons who make an application for international protection in the territory of Malta, including at the external border, in the territorial sea or in transit zones of Malta, provided that such third-country nationals and stateless persons are allowed to remain in the territory as applicants;

(b) family members of an applicant provided that such family members are covered by such an application for international protection in accordance with the Act or any subsidiary legislation made thereunder.

(2) These regulations shall not apply to requests for diplomatic or territorial asylum made to representations of Malta.

Part II

General provisions on reception conditions

4. (1) The Detention Services Agency and the Agency for the Welfare of Asylum Seekers, as applicable, shall provide applicants with information relating to the reception conditions established in these regulations, including information specific to their reception systems, as soon as possible and in good time, in order to effectively enable applicants to benefit from the rights and comply with the obligations provided for in these regulations. Information.

(2) Applicants shall be provided with standard information relating to reception conditions established in these regulations. Such information shall be provided as soon as possible and not later than three (3) days from when the application was made or within the time-frame for its registration which shall in any case shall not be less than five (5) days from when the application was made.

(3) The Detention Services Agency and the Agency for the Welfare of Asylum Seekers shall ensure that applicants are provided with information on organisations or groups of persons that provide

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specific legal assistance and representation, including information on organisations or groups of persons that provide legal assistance and representation free of charge, and organisations that might be able to assist or inform them about the available reception conditions, including health care.

(4) The Detention Services Agency and the Agency for the Welfare of Asylum Seekers shall ensure that the information referred to in sub-regulation (1) is provided in writing in a concise, transparent, intelligible and easily accessible form, using clear and plain language and in a language that the applicant understands or is reasonably supposed to understand. Where necessary, the said information shall also be provided orally or, where appropriate, in a visual form such as by using videos or pictograms, and shall be adapted to the applicant's needs:

Provided that unaccompanied minors shall be provided with the information referred to in sub-regulation (1) in an age-appropriate manner and in a manner that ensures that the unaccompanied minor understands it, by using information materials specifically adapted to minors, where appropriate. The said information shall be provided in the presence of the representative of the unaccompanied minor or of the person suitable to provisionally act as a representative until the representative is appointed:

Provided further that in exceptional cases, information referred to in sub-regulation (1) may be provided to the applicant by means of an oral translation, or where appropriate in a visual form such as videos or pictograms, where:

(a) such information may not be provided in writing within the time limit stipulated in sub-regulation (2) due to the fact that the language that an applicant understands or is reasonably supposed to understand is a rare language; and

(b) that the applicant subsequently confirms that he understands the information provided:

Provided further that in cases where a translation is required, the competent authority shall as soon as possible obtain a translation of the information referred to in sub-regulation (1) in writing and provide it to the applicant.

Documentation.

5. (1) The International Protection Agency shall ensure that the applicant is provided with the document referred to in Article 8 of Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for

international protection in the Union and repealing Directive 2013/32/EU.

(2) The Detention Services Agency and the Agency for the Welfare of Asylum Seekers, as applicable, shall not require applicants, for the sole reason that they are applicants for international protection or on the sole basis of their nationality, to provide unnecessary or a disproportionate amount of documentation or impose other administrative requirements on applicants before granting them the rights to which they are entitled under these regulations.

(3) Identità may provide applicants with a travel document only when serious humanitarian reasons or other imperative reasons arise that require their presence in another Member State. The validity of the travel document shall be limited to the purpose and duration necessary for the reason for which it is issued.

6. (1) Applicants may move freely within the territory of Malta. Organisation of reception systems.

(2) When allocating or re-allocating applicants to accommodation, the Agency for the Welfare of Asylum Seekers shall take into account objective factors, including family unity as referred to Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU and applicants' special reception needs:

Provided that the provision of material reception conditions may be made subject to the actual residence by the applicants in the accommodation allocated in accordance with this sub-regulation.

(3) Applicants shall be required to provide to the International Protection Agency their current address, a telephone number where they may be reached and, if available, an electronic mail address. Applicants shall also be required to notify the International Protection Agency of any change of address, telephone number or electronic mail address as soon as possible.

7. (1) The Principal Immigration Officer, may where necessary, decide that the applicant shall be allowed to reside only in a specific place that is adapted for housing applicants, for reasons of public order or to effectively prevent the applicant from absconding, where there is a risk of absconding, in particular with regard to: Restrictions on freedom of movement.

(a) applicants who are required to be present in another Member State in accordance with Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on

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asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013; or

(b) applicants who have been transferred to Malta in accordance with Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 after having absconded to another Member State:

Provided that where an applicant has been allowed to reside only in a specific place in accordance with this sub-regulation, the provision of material reception conditions shall be subject to the actual residence by the applicant in such specific place.

(2) Applicants may be required to report to the Principal Immigration Officer at specified times or at reasonable intervals, provided that their rights under these regulations are not affected disproportionately.

(3) Such reporting requirements may be imposed to ensure compliance with the decisions referred to in sub-regulation (1) or to effectively prevent applicants from absconding.

(4) Upon the request of the applicant, the Principal Immigration Officer may grant the applicant permission to reside temporarily outside the place designated in accordance with sub-regulation (1). Decisions regarding such permission shall be taken objectively and impartially on the merits of the individual case and reasons shall be given where such permission is not granted:

Provided that the applicant shall not be required to request permission to attend appointments with authorities or courts where his attendance is necessary. The applicant shall notify the Principal Immigration Officer of such appointments.

(5) Decisions taken in accordance with sub-regulations (1) and (2) shall be proportionate and shall take into account relevant aspects of the individual situation of the applicant, including the specific reception needs of the applicant.

(6) The Principal Immigration Officer shall state reasons in fact and, where relevant, in law for any decision taken in accordance with sub-regulations (1) and (2) in that decision.

(7) Applicants shall be informed in writing of such a decision, as well as of the procedures for challenging the decision in accordance with regulation 27 and of the consequences of non-compliance with the obligations imposed by the decision.

(8) Applicants shall be provided with such information in a language that they understand or are reasonably supposed to understand and in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

(9) All decisions taken by the Principal Immigration Officer in accordance with this regulation shall be reviewed *ex officio* by the Immigration Appeals Board where such decisions have been in force for more than two (2) months.

8. (1) The Principal Immigration Officer shall not hold a ^{Detention.} person in detention for the sole reason that such person is an applicant or on the basis of the nationality of the applicant. The detention shall be based only on one or more of the grounds for detention established in sub-regulation (3). The detention shall not be punitive in nature:

Provided that where necessary and on the basis of an individual assessment of each case, the Principal Immigration Officer may detain an applicant, if other less coercive alternative measures cannot be applied effectively.

(2) When detaining an applicant, account shall be taken of any visible signs, statements or behaviour indicating that the applicant has special reception needs:

Provided that where the assessment provided for in regulation 23 has not yet been completed, it shall be completed without undue delay and its results shall be taken into account when deciding whether to continue detention or whether the detention conditions need to be adjusted.

(3) An applicant may be detained only on the basis of one or more of the following grounds:

(a) to determine or verify his identity or nationality;

(b) to determine the elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular where there is a risk of absconding;

(c) to ensure compliance with legal obligations imposed on the applicant through an individual decision in accordance

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with regulation 7(1) in cases where the applicant has not complied with such obligations and there continues to be a risk of absconding;

(d) to decide in the context of a border procedure in accordance with Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU on the applicant's right to enter the territory;

S.L. 217.12.

(e) when the applicant is detained subject to a return procedure under the Common Standards and Procedures for returning Illegally Staying Third-Country Nationals Regulations in order to prepare the return, or carry out the removal process, and it may be demonstrated, on the basis of objective criteria, including that the applicant already had the opportunity to access the procedure for international protection, that there are reasonable grounds to believe that the applicant is making the application for international protection merely to delay or frustrate the enforcement of the return decision;

(f) when protection of national security or public order so requires; or

(g) in accordance with Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013.

Guarantees for
detained
applicants.

9. (1) An applicant shall be detained only for as short a period as possible, which period shall not exceed the period of nine (9) months and shall be kept in detention only for as long as the grounds established in regulation 8 are applicable.

(2) Administrative procedures relevant to the grounds for detention established in regulation 8 shall be executed with due diligence. Delays in administrative procedures that cannot be attributed to the applicant shall not justify a continuation of detention.

(3) The detention of applicants shall be ordered in writing by the Principal Immigration Officer.

(4) The detention order shall state the reasons in fact and in law on which it is based as well as why less coercive alternative measures cannot be applied effectively.

(5) Detention orders by the Principal Immigration Officer shall be subject to a speedy judicial review of the lawfulness of detention, which shall be conducted *ex officio* by the Immigration Appeals Board. Such review shall be concluded as speedily as possible, taking into account the circumstances of each case and, in any case not later than fifteen (15) days or, in exceptional situations, not later than twenty-one (21) days from the beginning of detention:

Provided that where the judicial review referred to in this sub-regulation has not been concluded within twenty-one (21) days from the beginning of detention, the applicant concerned shall be released immediately.

(6) Detained applicants shall immediately be informed in writing, in a language that they understand or are reasonably supposed to understand, of the reasons for detention and any national procedures for challenging the detention order, as well as of the possibility to request free legal assistance and representation.

(7) Detention shall be reviewed by the Immigration Appeals Board every two (2) months, *ex officio*, in particular whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention:

Provided that without prejudice to this sub-regulation, the detention of unaccompanied minors shall be reviewed *ex officio* at regular intervals:

Provided further that where as a result of the judicial review, detention is held to be unlawful, the applicant concerned shall be released immediately.

(8) In the event of judicial review of the detention order provided for in sub-regulation (7), applicants shall have access to free legal assistance and representation under the conditions established in regulation 27.

10. (1) Detention of applicants shall take place, as a rule, in specialised detention facilities. Where the Detention Services Agency cannot provide accommodation in a specialised detention facility and is obliged to resort to prison accommodation, the detained applicant shall be kept separately from ordinary prisoners and the detention conditions provided for in these regulations shall apply:

Conditions of
detention.

Provided that as far as possible, detained applicants shall be kept separately from other third-country nationals who have not filed an application for international protection:

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Provided further that where applicants cannot be detained separately from other third-country nationals, the detention conditions provided for in these regulations shall apply.

(2) Detained applicants shall have access to open-air spaces.

(3) Persons representing the United Nations High Commissioner for Refugees (UNHCR) shall have the possibility to communicate with and visit applicants in conditions that respect privacy:

Provided that such provision shall also apply to an organisation registered in Malta on behalf of UNHCR pursuant to an agreement with the Ministry responsible for migration.

(4) Family members, legal advisers or counsellors and persons representing non-governmental organisations registered in Malta shall have the possibility to communicate with and visit applicants in conditions that respect privacy:

S.L. 217.19. Provided that limits on access to the detention facility shall be imposed only where they are objectively necessary for security, public order or the administrative management of the detention facility in accordance with regulation 30 of the Detention Service Regulations, provided that access is not thereby severely restricted or rendered impossible.

(5) Applicants in detention shall be systematically provided with information which explains the rules applicable in the detention facility and establishes the rights and obligations of such applicants, in a language which they understand or are reasonably supposed to understand:

Provided that in the event that an applicant is detained at a border post or in a transit zone, the obligation to provide information shall be derogated from in duly justified cases and for a reasonable period of time which shall be as short as possible. This derogation shall not apply in cases referred to in Article 43 of Regulation (EU) 2024/1348.

Detention of applicants with special reception needs.

11. (1) The health, including the mental health, of applicants in detention with special reception needs shall be of primary concern:

Provided that where the detention of applicants with special reception needs would put their physical and mental health at serious risk, those applicants shall not be detained:

Provided further that where applicants with special

reception needs are detained, the Detention Services Agency and the Agency for the Welfare of Asylum Seekers shall ensure regular monitoring of, and the provision of timely and adequate support to those applicants, taking into account their particular situation, including their physical and mental health.

(2) Minors shall, as a rule, not be detained.

(3) Minors shall be placed in suitable accommodation in accordance with regulations 24 and 25:

Provided that adequate alternatives to detention shall, as a rule, be used for families with minors in accordance with the principle of family unity. Such families shall be placed in accommodation suitable for them.

(4) In exceptional circumstances, as a measure of last resort and after it has been established that other less coercive alternative measures cannot be applied effectively, and after detention is assessed to be in their best interests in accordance with regulation 24, minors may be detained:

(a) in the case of accompanied minors, where the minor's parent or primary care-giver is detained; or

(b) in the case of unaccompanied minors, where detention safeguards the minor.

(5) Detention of minors shall be for the shortest possible period of time. Minors shall never be detained in prison or another facility used for law enforcement purposes.

(6) All efforts shall be made to release minors from detention and place them in accommodation suitable for minors.

(7) The best interests of the minor, as referred to in regulation 24, shall be a primary consideration.

(8) Where minors are detained, they shall have the right to education in accordance with regulation 14, unless the provision of education is of limited value to them due to the very short period of their detention. Those minors shall also have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age.

(9) Where unaccompanied minors are detained, they shall be accommodated in facilities adapted to the accommodation of unaccompanied minors. Such facilities shall be provided with staff

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qualified to safeguard the rights of unaccompanied minors and attend to their needs.

(10) Where unaccompanied minors are detained, such minors shall be accommodated separately from adults.

(11) Detained families shall be provided with separate accommodation that guarantees adequate privacy.

(12) Detained families with minors shall be accommodated in detention facilities adapted to the needs of minors.

(13) Detained male and female applicants shall be accommodated separately, unless those detained applicants are family members and all individuals concerned consent to be accommodated together:

Provided that male and female applicants may share common spaces designed for recreational or social activities, including the provision of meals.

(14) Where the applicant is detained at a border post or in a transit zone, with the exception of the cases referred to in Article 43 of Regulation (EU) 2024/1348 the Detention Services Agency may derogate from sub-regulations (9), (11), (12) and (13), in duly justified cases and for a reasonable period of time, that shall be as short as possible:

Provided that the Detention Services Agency shall have sufficient facilities and resources in place to ensure that these derogations are applied only in exceptional situations. When applying these derogations the European Commission and the European Union Agency for Asylum shall be informed accordingly.

Families.

12. When providing applicants with accommodation, the Agency for the Welfare of Asylum Seekers shall take appropriate measures to maintain, as far as possible, family unity present within Maltese territory. Such measures shall be implemented with the applicant's consent.

Medical screening.
Cap. 465.

13. The health authorities may require medical screening for applicants on public health grounds in accordance with the Public Health Act.

Schooling and education of minors.

14. (1) Minor children of applicants and applicants who are minors shall be granted the same access to education as Maltese nationals and under similar conditions for so long as an expulsion measure against such minors or their parents is not actually enforced.

(2) The specific needs of minors, in particular with regard to respect for the child's right to education and access to health care shall be taken into account.

(3) The education of minors shall, as a rule, be integrated with that of Maltese nationals and be of the same quality:

Provided that all efforts shall be made to ensure the continuity of education of minors for as long as an expulsion measure against them or their parents is not actually enforced.

(4) Secondary education shall not be withdrawn for the sole reason that the minor has reached the age of majority.

(5) Minors referred to in sub-regulation (1) shall be granted access to the general education system as soon as possible and the Ministry responsible for Education shall not postpone the granting of that access for more than two (2) months from the date on which the application for international protection was lodged taking into account school holidays:

Provided that education outside the general education system may be provided as a temporary measure and for a maximum period of one (1) month:

Provided further that preparatory classes, including language classes, shall be provided to minors where it is necessary to facilitate their access to and participation in the general education system.

(6) Where access to the general education system is not possible due to the specific situation of the minor including inability to communicate in the Maltese or English language, education arrangements shall be provided in accordance with relevant national provisions and programmes offered by the Ministry responsible for Education.

15. (1) Applicants shall have access to the labour market not later than six (6) months from the date on which the application for international protection was registered provided that an administrative decision by the International Protection Agency has not been taken and the delay cannot be attributed to the applicant, provided that the person concerned is still an applicant: Employment.

Provided that applicants whose application for international protection has been accelerated on the merits in accordance with Article 42 of Regulation (EU) 2024/1348 shall not have access to the labour market or, if already granted, such access shall be withdrawn.

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(2) Applicants who have access to the labour market in accordance with sub-regulation (1), shall have effective access to the labour market in accordance with relevant national provisions:

Provided that for reasons of labour market policies, including regarding youth unemployment levels, Jobsplus may verify whether a specific vacancy that an employer is considering to fill with an applicant who has access to the labour market in accordance with sub-regulation (1) could be filled by Maltese nationals, by other European Union citizens, or by third-country nationals and stateless persons lawfully residing in Malta. If Jobsplus finds that the specific vacancy may be filled by such persons, such authority or the employer may refuse the employment of the applicant for such vacancy.

(3) Applicants who have access to the labour market in accordance with sub-regulation (1), shall enjoy equal treatment with Maltese nationals as regards:

(a) terms of employment, the minimum working age and working conditions, including pay and dismissal, working hours, leave and holidays, as well as health and safety requirements at the workplace;

(b) freedom of association and affiliation and membership of an organisation representing workers or employers or any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations;

(c) education and vocational training, including training courses for improving skills, practical workplace experience and employment guidance services;

(d) recognition of diplomas, certificates and other evidence of formal qualifications in the context of existing procedures for recognition of foreign qualifications; and

(e) access to appropriate schemes for the assessment, validation and recognition of applicants' prior learning outcomes and experience.

(4) Equal treatment of applicants who have access to the labour market shall be restricted in accordance with sub-regulation (1):

(a) as regards sub-regulation (3)(b), by excluding them from taking part in the management of bodies governed by public law and from holding an office governed by public law;

(b) as regards sub-regulation (3)(c), by excluding:

(i) grants and loans related to education and vocational training and the payment of fees in accordance with national provisions regarding access to university or post-secondary education; and

(ii) education and vocational training which is not provided within the framework of an existing employment contract, including where provided for employment promotion purposes;

(c) as regards sub-regulations (3)(d) or (3)(e), by not granting equal treatment for at least three (3) months from the date on which the application for international protection was registered.

(5) Applicants who are employed or, based on previous employment, are entitled to social security benefits, shall enjoy equal treatment with Maltese nationals as regards branches of social security referred to in Articles 3(1) and (2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security system.

(6) Without prejudice to the provisions of the Social Security Act and relevant subsidiary legislation, equal treatment under sub-regulation (5) shall be restricted by excluding social security benefits which are not dependent on periods of employment or on contributions. Cap. 318.

(7) The right to equal treatment pursuant to these regulations shall not give rise to a right to reside in cases where a decision taken in accordance with Regulation (EU) 2024/1348 has terminated the applicant's right to remain.

(8) For the purposes of sub-regulation (3)(d), and without prejudice to regulations 3 and 4 of the Recognition of Professional Qualifications Regulations, the Malta Qualifications Recognition Information Centre (MQRIC) shall facilitate to the extent possible, full access to existing procedures for the recognition of foreign qualifications for applicants who cannot provide documentary evidence of their qualifications. S.L. 451.03.

(9) Access to the labour market shall not be withdrawn during an appeal procedure where the applicant has the right to remain on Maltese territory during that procedure and until a negative decision regarding the appeal is served.

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Language
courses and
vocational
training.

16. Applicants shall have access to language courses, civic education courses or vocational training courses that are appropriate in order to help enhance applicants' ability to act autonomously, to interact with competent authorities or to find employment or to facilitate access to such courses, irrespective of whether applicants have access to the labour market in accordance with regulation 15:

Provided that where applicants have sufficient means, applicants may be required to cover or contribute to the cost of courses referred to in this regulation.

General rules on
material
reception
conditions and
health care.

17. (1) Material reception conditions shall be available to applicants from the moment that they apply for international protection in accordance with Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

(2) Material reception conditions and health care received in accordance with regulation 20 shall provide an adequate standard of living for applicants, which guarantees their subsistence, protects their physical and mental health and respects their rights under the Charter of Fundamental Rights.

(3) The adequate standard of living referred to in sub-regulation (2) shall meet the specific situation of the applicants with special reception needs as well as in relation to the situation of persons who are in detention.

(4) Material reception conditions shall be granted subject to the condition that applicants do not have sufficient means to have the adequate standard of living referred to in sub-regulation (2).

(5) Without prejudice to sub-regulation (2), applicants may be required to cover or contribute to the cost of the material reception conditions when such applicants have sufficient means to do so.

(6) Without prejudice to sub-regulation (2), applicants may be required to cover or contribute to the cost of the health care received, when such applicants have sufficient means to do so, except where the health care is provided free of charge to Maltese nationals.

(7) If it transpires that an applicant had sufficient means to cover the costs of the material reception conditions or health care received in accordance with sub-regulations (5) and (6), at the time the applicant was provided with an adequate standard of living, such applicant may be required to refund the costs of those material reception conditions or health care.

(8) The principle of proportionality shall be respected when assessing the resources of an applicant, when requiring an applicant to cover or contribute to the cost of the material reception conditions and of the health care received or when requiring an applicant to refund costs in accordance with sub-regulation (7). The individual circumstances of the applicant and the necessity to respect his dignity or personal integrity, including the applicant's special reception needs shall be taken into consideration.

(9) When material reception conditions are provided in the form of financial allowances or vouchers, the amount thereof shall be determined administratively by the Agency for the Welfare of Asylum Seekers. This information shall be communicated to the European Commission and the European Union Agency for Asylum.

18. (1) Accommodation in kind shall be provided by the Agency for the Welfare of Asylum Seekers at reception centres, which accommodation shall provide the applicant with an adequate standard of living as well as necessary support to account for the applicant's special reception needs.

Arrangements
for material
reception
conditions.

(2) Without prejudice to any specific conditions of detention as provided for in these regulations, applicants shall:

(a) be guaranteed protection of their family life;

(b) have the possibility of communicating with relatives, legal advisers or counsellors, persons representing UNHCR and other relevant national, international and non-governmental organisations and bodies.

(3) Family members, legal advisers or counsellors, persons representing UNHCR and relevant non-governmental organisations recognised by Malta, shall be granted access to both detention and open centres in order to assist the applicants:

Provided that limits on such access may be imposed only on grounds relating to the security of the premises and of the applicants:

Provided further that when granting material reception conditions, consideration shall be taken of gender and age-specific concerns and the situation of applicants with special reception needs:

Provided further that when providing accommodation in accordance with sub-regulation (1), appropriate measures shall be taken in order to ensure, as far as possible, the prevention of assault and violence, including violence committed with a sexual, gender,

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racist or religious motive.

(4) When female applicants are placed in accommodation centres, they shall be provided with separate sanitary facilities and a safe place for them and their minor children.

(5) Dependent adult applicants with special reception needs shall, as far as possible, be accommodated together with close adult relatives who are already present in Malta and who are responsible for them whether in accordance with national law or practice.

(6) Transfers of applicants from one accommodation facility to another shall only take place when necessary. Applicants shall be allowed to inform their legal advisers or counsellors of the transfer and of their new address.

(7) Persons providing material reception conditions, including those providing health care and education in accommodation centres, shall be adequately trained and shall be bound by the confidentiality rules in relation to any information they obtain in the course of their work.

(8) In duly justified cases and for a reasonable period of time which shall be as short as possible, the Detention Services Agency and the Agency for the Welfare of Asylum Seekers may exceptionally provide material reception conditions that are different from those provided for in this regulation where:

(a) an assessment of special reception needs of the applicant is required in accordance with regulation 11;

(b) accommodation capacities normally available are temporarily exhausted or, where due to a disproportionate number of persons to be accommodated or a natural or man-made disaster, accommodation capacities normally available are temporarily unavailable.

(9) Different material reception conditions referred to in sub-regulation (8) shall in any event ensure access to health care in accordance with regulation 20 and a standard of living for all applicants in accordance with Union law, including the Charter of Fundamental Rights and international obligations.

(10) When different material reception conditions are provided in accordance with sub-regulation (8), the competent authorities shall inform without delay the European Commission and the European Union Agency for Asylum in accordance with regulation 17 on the

activation of its contingency plan. The competent authorities shall also inform the Commission and the European Union Agency for Asylum as soon as the reasons for providing different material reception conditions have ceased to exist.

19. Applicants shall not be entitled to the reception conditions established in regulations 15 to 18 from the moment such applicants have been notified of a decision to transfer them to the Member State responsible in accordance with Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013. This shall be without prejudice to the necessity to ensure a standard of living in accordance with Union law, including the Charter of Fundamental Rights and international obligations:

Reception conditions when Malta is not the Member State in which the applicant is required to be present.

Provided that unless a separate decision is issued, the transfer decision shall state that the relevant reception conditions have been withdrawn in accordance with this regulation. The applicant shall be informed of his rights and obligations with regard to such decision.

20. (1) Without prejudice to the provisions of regulation 17, applicants shall receive the necessary health care, whether provided by generalists or, where needed, as well as by specialist practitioners:

Health care.

Provided that such necessary health care shall be of adequate quality and shall be limited to emergency care, essential treatment of illnesses, including of serious mental disorders, and sexual and reproductive health care which is essential in addressing a serious physical condition.

(2) Minor children of applicants and applicants who are minors shall receive the same type of health care as provided to Maltese nationals who are minors. Specific treatment provided in accordance with this regulation which started before the minor reached the age of majority and is considered necessary, shall be received without interruption or delay after the minor reaches the age of majority:

Provided that where needed for medical reasons, applicants who have special reception needs, including appropriate mental health care, shall be provided with the necessary medical or other assistance, including rehabilitation and assistive medical devices.

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Part III

Reduction or withdrawal of material reception conditions

Reduction or withdrawal of material reception conditions.

21. (1) The daily expenses allowance may be reduced or withdrawn with regard to applicants who are required to be present on Maltese territory in accordance with Article 17(4) of Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013:

Provided that if duly justified and proportionate, the Agency for the Welfare of Asylum Seekers may also:

(a) reduce other material reception conditions;

(b) withdraw other material reception conditions, if the applicant has seriously or repeatedly breached the rules of the accommodation centre or has behaved in a violent or threatening manner in the accommodation centre.

(2) Decisions in accordance with sub-regulation (1) may be taken when an applicant:

(a) abandons the residence in a specific place designated by the Principal Immigration Officer in accordance with regulation 7 without permission, or absconds;

(b) does not cooperate with the competent authorities, or does not comply with the procedural requirements established by them;

(c) has submitted a subsequent application as defined in article 2 of the Act;

(d) has concealed financial resources, and has therefore unduly benefited from material reception conditions;

(e) has seriously or repeatedly breached the rules of the accommodation centre or has behaved in a violent or threatening manner in the accommodation centre; or

(f) fails to participate in compulsory integration measures, when provided or facilitated by the competent authorities, unless there are circumstances beyond the applicant's control.

(3) Where a decision has been taken in accordance with sub-

regulation 2(a), (b) or (f), and the circumstances on which that decision was based cease to exist, the Agency for the Welfare of Asylum Seekers shall consider whether some or all of the material reception conditions withdrawn or reduced may be reinstated:

Provided that where not all material reception conditions are reinstated, the Agency for the Welfare of Asylum Seekers shall take a duly justified decision and notify it to the applicant.

(4) Decisions taken in accordance with sub-regulation (1) shall be taken objectively and impartially on the merits of the individual case and shall state the reasons on which they are based.

(5) Decisions shall be based on the particular situation of the applicant, especially with regard to applicants with special reception needs, taking into account the principle of proportionality.

(6) All applicants shall have access to health care in accordance with regulation 20 and shall be entitled to a standard of living in accordance with Union law, including the Charter of Fundamental Rights and international obligations.

(7) Material reception conditions shall not be withdrawn or reduced before a decision is taken in a situation referred to in sub-regulation (2).

Part IV

Provisions for applicants with special reception needs

22. (1) The specific situation of applicants with special reception needs shall be taken into account.

Applicants with special reception needs.

(2) The Agency for the Welfare of Asylum Seekers shall, in cooperation with other competent authorities, as required, take into consideration the fact that certain applicants such as those falling within any of the following categories, are more likely to have special reception needs:

- (a) minors;
- (b) unaccompanied minors;
- (c) persons with disabilities;
- (d) elderly persons;
- (e) pregnant women;

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- (f) lesbian, gay, bisexual, transgender and intersex persons;
- (g) single parents with minor children;
- (h) victims of human trafficking;
- (i) persons with serious illnesses;
- (j) persons with mental disorders including post-traumatic stress disorder;
- (k) persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of gender-based violence, of female genital mutilation, of child or forced marriage, or violence committed with a sexual gender, racist or religious motive.

Assessment of
special
reception needs.

23. (1) In order to effectively implement regulation 22, the Agency for the Welfare of Asylum Seekers shall, in cooperation with authorities providing advice and support in relation to vulnerable persons, as required, as early as possible after an application for international protection is made, individually assess whether the applicant has special reception needs, using oral translation where necessary:

Provided that such an assessment shall be initiated by identifying special reception needs based on visible signs or on the applicants' statements or behaviour or, where applicable, statements of the parents or the representative of the applicant:

Provided further that such assessment shall be completed within thirty (30) days from the filing of the application for international protection or, where it is integrated into the assessment referred to in Article 20 of Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU within the time-frame established in such Regulation, and the special reception needs identified on the basis of such assessment shall be addressed:

Provided further that where special reception needs result at a later stage in the procedure for international protection, the Agency for the Welfare of Asylum Seekers shall, in cooperation with other competent authorities as required, assess and address those needs.

(2) Support provided to applicants with special reception needs

shall take into account their special reception needs throughout the duration of the procedure for international protection and shall provide for appropriate monitoring of their situation.

(3) For the purposes of sub-regulation (1), staff assessing special reception needs shall:

(a) be trained and receive ongoing training to detect signs that an applicant has special reception needs and to address those needs when identified:

(b) include information concerning the nature of the applicant's special reception needs in the applicant's file held by the Agency for the Welfare of Asylum Seekers, together with a description of the visible signs or the applicant's statements or behaviour relevant for the assessment of the applicant's special needs as well as the measures that have been identified to address those needs and the authorities responsible for addressing those needs; and

(c) (i) subject to prior consent, refer applicants to the appropriate medical practitioner or psychologist for further assessment of their psychological and physical state where there are indications that their mental or physical health could affect their reception needs;

(ii) where necessary, oral translation shall be provided by qualified professional translators to ensure that the applicant is able to communicate with medical staff;

(iii) where the lack of such trained professionals would risk delaying treatment, oral translation may be provided by other adult individuals, subject to the applicant's consent.

(4) The Agency for the Welfare of Asylum Seekers shall take into account the result of the assessment referred to in sub-regulation (3)(c) when deciding on the type of special reception support which may be provided to the applicant.

(5) Applicants with special reception needs only may benefit from the specific support provided in accordance with these regulations.

(6) The assessment of sub-regulation (1) shall be without prejudice to the assessment of international protection needs in accordance with Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common

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procedure for international protection in the Union and repealing Directive 2013/32/EU.

Best interests of minors.

24. (1) When implementing the provisions of these regulations that may potentially affect the minor, the best interests of the minor shall be the primary consideration. Minors shall be entitled to an adequate standard of living for their physical, mental, spiritual, moral and social development.

(2) When the best interests of the minor are being assessed, particular consideration shall be given to the following factors:

(a) family reunification possibilities;

(b) the minor's well-being and social development, taking into particular consideration the minor's background and the need for stability and continuity in care;

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of any form of violence or exploitation, including human trafficking; and

(d) the views of the minor in accordance with his age and maturity.

(3) Minors shall have access to leisure activities, including play and recreational activities appropriate to their age, and to open-air activities within the premises and accommodation centres referred to in regulation 18(1), as well as to school materials where needed.

(4) Minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts shall have access to rehabilitation services. Appropriate mental health care shall be developed and qualified counselling shall be provided where needed.

(5) Minor children of applicants or applicants who are minors shall be accommodated with their parents or with the adult responsible for them and their unmarried minor siblings, provided that this is in the best interests of the minors concerned.

(6) Persons working with minors, including representatives and persons suitable to provisionally act as representatives as referred to in regulation 25, shall not have a record of child-related crimes or offences, or of crimes or offences that lead to serious doubts about their ability to assume a role of responsibility with regard to minors, shall receive initial and continuous appropriate training concerning the rights and needs of minors, including those related to any applicable

child safeguarding standards, and shall be bound by the confidentiality rules in relation to any information they obtain in the course of their work.

25. (1) Where an application is made by a person who claims to be a minor, or in relation to whom there are objective grounds to believe that such person is a minor, the Agency for the Welfare of Asylum Seekers shall designate: Unaccompanied minors.

(a) a person suitable to provisionally act as a representative until a representative has been appointed;

(b) a representative, as soon as possible, provided that this shall be done not later than fifteen (15) working days from the date on which the application is made.

(2) The representative and the person suitable to provisionally act as a representative shall meet with the unaccompanied minor and shall take into account the minor's own views about his own needs.

(3) Where the Agency for the Welfare of Asylum Seekers has assessed that an applicant who claims to be a minor is without any doubt above the age of eighteen (18) years, the Agency shall not be required to appoint a representative or designate a person suitable to provisionally act as a representative in accordance with sub-regulations (1)(a) and (b), respectively.

(4) Where the implementation of measures indicated in the respective national contingency plan is insufficient to respond to a disproportionate number of applications made by unaccompanied minors, or in other exceptional situations, the appointment of representatives may be delayed by ten (10) working days and the number of unaccompanied minors per representative may be increased up to a maximum of fifty (50) unaccompanied minors:

Provided that a natural person appointed as a representative or designated as a person suitable to provisionally act as a representative in charge of a proportionate and limited number of unaccompanied minors, shall not be responsible for more than thirty (30) unaccompanied minors at the same time, in order to ensure that such person is able to perform tasks effectively.

(5) When applying sub-regulation (4), the Agency for the Welfare of Asylum Seekers shall inform the Commission and the European Union Asylum Agency accordingly.

(6) The duties of the representative and the person suitable to provisionally act as a representative shall cease where the Agency for

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the Welfare of Asylum Seekers, following the age assessment referred to in Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, do not assume that the applicant is a minor or consider that the applicant is not a minor, or where the applicant is no longer an unaccompanied minor.

(7) The person suitable to provisionally act as a representative shall be immediately informed when an application for international protection is made by an unaccompanied minor of any relevant facts pertaining to such minor:

Provided that persons whose interests conflict or may potentially conflict with those of the unaccompanied minor shall not be designated as a person suitable to provisionally act as a representative:

Provided further that the unaccompanied minor shall be immediately informed that a person suitable to provisionally act as a representative has been designated.

(8) Where an organisation is appointed as a representative or designated as a person suitable to provisionally act as a representative, a natural person shall be appointed to carry out the tasks of the representative in respect of the unaccompanied minor.

(9) The representative provided for in sub-regulation (1) shall be the same person as established in Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

(10) The Agency for the Welfare of Asylum Seekers shall immediately inform:

(a) the unaccompanied minor that a representative has been appointed for him and how to file a complaint against said representative in a confidential and safe manner appropriate to the applicant's age and in a manner that ensures that the minor understands such information; and

(b) the representative of relevant facts pertaining to the unaccompanied minor.

(11) The representative or the person suitable to provisionally act as a representative shall be changed only where necessary, in

particular, when the Agency for the Welfare of Asylum Seekers considers that the representative or person has not performed his tasks adequately:

Provided that organisations or natural persons whose interests conflict or may potentially conflict with those of the unaccompanied minor shall not be appointed as a representative or designated as a person suitable to act as a representative.

(12) The Chief Executive Officer of the Agency for the Welfare of Asylum Seekers or his designated representative shall be responsible to supervise the proper performance of tasks by the representatives and persons suitable to provisionally act as representatives, including by reviewing the criminal records of those appointed representatives and designated persons at regular intervals in order to identify potential conflicts with their role.

(13) The Chief Executive Officer of the Agency responsible for the Welfare of Asylum Seekers or his designated representative shall review complaints filed by unaccompanied minors against their appointed representatives or designated persons.

(14) Unaccompanied minors who apply for international protection, from the moment they are admitted into Maltese territory until the moment they are obliged to leave Maltese territory, shall be placed:

- (a) with adult relatives;
- (b) with a foster family;
- (c) in accommodation centres with special provisions for minors;
- (d) in other accommodation suitable for minors.

(15) Unaccompanied minors aged sixteen (16) or over may be placed in accommodation centres for adult applicants, if it is in their best interests:

Provided that as far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, their age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.

(16) The Agency responsible for the Welfare of Asylum Seekers shall start tracing the members of the unaccompanied minor's family, where necessary with the assistance of international or other relevant

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organisations, as soon as possible after an application for international protection is made, whilst protecting the best interests of the unaccompanied minor:

Provided that where there is a possible threat to the life or integrity of the minor or the minor's close relatives, in particular if those relatives have remained in the country of origin, care shall be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, in order to avoid jeopardising their safety.

Victims of
torture and
violence.

26. (1) Persons who have been subjected to trafficking of human beings, torture, rape or other serious acts of psychological, physical or sexual violence, including violence committed with a sexual, gender, racist or religious motive, shall be provided with necessary medical and psychological treatment and care, including rehabilitation services and counselling where necessary, for the damage caused by such acts. Those persons shall be provided, where necessary, with oral interpretation in accordance with regulation 23(3)(c)(ii):

Provided that access to such treatment and care shall be provided as early as possible after those persons' needs have been identified.

(2) Professionals working with the persons mentioned in sub-regulation (1), including health professionals, shall be appropriately trained and shall continue to receive appropriate training concerning those persons' needs and appropriate treatment, including necessary rehabilitation services:

Provided that these professionals shall be bound by confidentiality rules and applicable professional ethics codes in relation to any information they obtain in the course of their work.

Part V Remedies

Appeals.

Cap. 217.

27. (1) Applicants who feel aggrieved by a decision taken in accordance with these regulations shall be entitled to an appeal before the Immigration Appeals Board in accordance with the provisions established in the Immigration Act:

Provided that applicants who lack sufficient resources to appeal from a decision shall be entitled to free legal assistance and representation.

(2) Free legal assistance and representation shall entail the

preparation of the required procedural documents and participation in the hearing before the Immigration Appeals Board.

(3) Free legal assistance and representation may not be granted where:

(a) the applicant has sufficient resources; or

(b) the appeal before the Immigration Appeals Board or the Court of Appeal (Inferior Jurisdiction) has no tangible prospect of success:

Provided that where a decision not to grant free legal assistance and representation is taken by an authority which is not a court or tribunal on the ground that the appeal or review is considered to have no tangible prospect of success, the applicant shall have the right to an effective remedy before the Immigration Appeals Board against such decision, and for that purpose shall be entitled to request free legal assistance and representation.

(4) Without prejudice to sub-regulations 17(2) and (3), total or partial reimbursement of any costs incurred may be requested where the applicant's financial situation has improved considerably during the procedure for international protection in accordance with Regulation (EU) 2024/1348 or where the decision to provide free legal assistance and representation was taken on the basis of false information supplied by the applicant.
