

LEGAL NOTICE XXX OF 2013

MALTESE CITIZENSHIP ACT

(CAP. 188)

MALTA INDIVIDUAL INVESTOR PROGRAMME REGULATIONS, 2013

IN exercise of the powers conferred by articles 10 (9) (b) and 24 of the Maltese Citizenship Act, the President of Malta, and has made the following Regulations:

1. The short title of these Regulations is the Malta Individual Investor Programme Regulations, 2013.

Citation.

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

Interpretation.

“Act” means the Maltese Citizenship Act, Cap. 188);

“Application” means an Application made pursuant to these Regulations;

“Applicant” means the person who applies or on whose behalf it is being applied for his naturalisation as a citizen of Malta under the individual investor programme either as a main applicant or as a dependant;

“Application Requirements” means the formal and substantial requirements which each Applicant must meet, as set forth in these Regulations;

“Authenticated Translation” means a translation done by either a professional translator who is officially accredited to a court of law, a government agency, an international organization, or similar official institution, or if done in a country where there are no official accredited translators a translation done by a company whose role or business is professional translation;

“Certified Copy” means a photocopy certified by a duly licenced lawyer, accountant, notary public, a Maltese consular or diplomatic officer or a senior officer of the Concessionaire to be a true copy of the original;

“Concessionaire” means the entity awarded with the public service concession contract to design, implement, administer, operate and promote the Programme, or any subsidiary of that entity, duly authorized by the public service concession contract;

“Contribution” means a contribution to the National Development Fund, in accordance with these Regulations;

“Dependant” means—

- (a) the spouse of the Main Applicant in a monogamous marriage or in another relationship having the same or a similar status to marriage, unless the Minister authorises otherwise on a case by case basis;;
- (b) a child, including an adopted child, of the Main Applicant or of his or her spouse who is less than eighteen years of age;
- (c) a child of the Main Applicant or of his or her spouse who is between the age of eighteen and twenty-five years, having not yet reached his or her twenty-sixth birthday, and who is not married and

- who proves to the satisfaction of the Minister that he is wholly maintained by the Main Applicant;
- (d) a parent or grandparent of the Main Applicant or of his or her spouse above the age of fifty-five years who prove to the satisfaction of the Minister that they are wholly maintained or supported by the main Applicant and form part of the household of the Main Applicant; or
 - (e) a child of the Main Applicant or of the spouse of the Main Applicant who is at least eighteen years of age, is physically or mentally challenged, and who is living with and is fully supported by the Main Applicant, provided that such person has the capacity to take the oath of allegiance;

“National Development Fund” means the fund established by the Government of Malta to receive the Contributions;

“Identity Malta” means the agency established by the Identity Malta Agency (Establishment) Order, 2013;

“Main Applicant” means the person who, either as a single Applicant or as the head of a family, undertakes a contribution for the purposes of these Regulations and signs the relevant agreements and undertakings on behalf of his or her Dependants;

“Minister” has the same meaning as assigned to it in the Act;

“Non-Refundable Payment” means the portion of the Contribution paid up front at the time of submission of the Application;

“Police Certificate” means a certificate, report or statement from a national law enforcement authority or other public authority in charge of criminal records on the status of an Applicant’s criminal record;

“Programme” means the Malta Individual Investor Programme;

“Public Service Concession” means the public service concession awarded to the Concessionaire to design, implement, promote and operate the Programme;

“Regulations” means these present regulations known as the Malta Individual Investor Programme Regulations, 2013.

Establishment of Individual Investor Programme.

3. (1) There is hereby established a Programme, to be known as the “Malta Individual Investor Programme”, which, based on article 10 (9) (b) of the Act and subject to the provisions made by these Regulations, shall allow for the grant of citizenship by a certificate of naturalization to foreign individuals and families who contribute to the economic development of Malta, subject to the provisions of these Regulations and the Public Service Concession awarded to the Concessionaire, which shall operate this Programme under the said Public Service Concession.

Qualifications and general requirements.

4. The qualifications and general requirements for citizenship Applications under the Programme shall be determined as follows:

- (1) Any person who is—
 - (a) at least eighteen years of age ;
 - (b) proposes to make a contribution as determined in Schedule 1 hereof; and
 - (c) who meets the Application Requirements.

may apply as a Main Applicant to become a citizen of Malta pursuant to

article 10 (9) (b) of the Act.

- (2) Applications shall be made on the forms prescribed and shall be accompanied by the prescribed due diligence and bank charges fees, as specified in Schedule 1 hereof, and by the originals or Certified Copies of the following:
 - (a) a certificate in the form prescribed by Identity Malta and made by a licensed medical practitioner that the main Applicant and his or her Dependants are not suffering from any contagious disease and that they are otherwise in good health;
 - (b) a Police Certificate or Certificates, which may however also be submitted subsequently at a later date but in any case before the Application is approved ;
 - (c) an undertaking to remit the total of the required Contribution, less the Non-Refundable Payment already made at the time of submission of the Application, of the amount as specified in Schedule 1 hereof, when called to do so by the Concessionaire; and
 - (d) any other document as may be required from time to time by notice issued by Identity Malta.
- (3) All Applications shall be submitted by the Main Applicant to the Concessionaire.
- (4) Application forms shall be completed in English and any document submitted with the Application shall be in English, or, if the original language of the document is not in English, the document shall be accompanied by an Authenticated Translation.
- (5) The main Applicant shall, with the exception of his or her spouse, provide an affidavit of support for each Dependant who is over eighteen years old.
- (6) Each Application form must be completed personally by the Applicant or if the Applicant is unable to complete the forms personally, by the legal representative of the Applicant and signed by each Applicant as well as the Main Applicant. For Dependants the following conditions shall be applicable—
 - (a) for a Dependant who is below the age of eighteen, both parents must sign the forms on behalf of the Dependant; and
 - (b) in a case where one parent has sole custody of a Dependant, or another person has legal guardianship of a Dependant, the appropriate legal documentation shall be provided to demonstrate that sole custody or guardianship was awarded by a court of law or other relevant authority.
- (7) If an Applicant makes a false statement or omits information requested, the Application may be declined solely on that basis.
- (8) With the exception of a Police Certificate, which may be submitted subsequently at a later date but in any case before the Application is approved, Applications shall only be accepted and processed if all forms are properly completed, dated and signed, and if accompanied by all required documents, fees and an undertaking to remit the required Contribution as called upon by the Concessionaire following the approval in principle of the application.

Eligibility criteria

5. (1) In addition to the qualifications and general requirements set forth in Regulation 4, the minimum eligibility criteria for an Application under the Programme shall be as follows:

(a) a proper background verification of the Applicant as well as all his or her Dependants over the age of twelve years whenever this is the case;

(b) a Police Certificate as issued by the Malta Police Authorities showing whether such person ever committed any crimes in the Republic of Malta, as well as a Police Certificate issued by the competent police authorities in the country of origin and in the country or countries of residence where the Applicant has resided for a period of more than six months during the last ten years, or if not obtainable, a sworn affidavit made by the Applicant and or any Dependants, before a duly licenced lawyer or notary public, stating that they have a clean criminal record;

(c) the Applicant and or any of his or her Dependants are not individuals indicted before the International Criminal Court or appeared at any time, before the International Criminal Court, whether such persons have been found guilty or otherwise by such International Criminal Court;

(d) the Applicant and or any of his or her Dependants, shall not be persons listed with the International Criminal Police Organization (INTERPOL), previously and in the past, or at the time of application;

(e) the Applicant and or any of his or her Dependants is not an enemy of the State of the Republic of Malta, or is not, or may not be a potential threat to Malta's independence, national security or reputation;

Comment [CK1]: Logical adjustment

(f) the Applicant and or any of his or her Dependants shall not be an individual who, at any time of such Application, has pending charges related to crimes of terrorism, funding of terrorism, crimes against humanity, war crimes, or crimes that infringe upon such Protection of Human Rights and Fundamental Freedoms as established by European Convention on Human Rights. The Applicant shall not be an individual who at any time in the past has been found guilty of any such crimes;

(g) the Applicant and or any of his or her Dependants shall not be an individual who has been found guilty in the past or has charges brought against him or her 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;

(i) (h) the Applicant and or any of his or her Dependants shall not be an individual who at any time in his or her history was found guilty, or at the time of the Application, is being interrogated and suspected, or has criminal charges brought against him or her for any of the criminal offences, other than involuntary offences, punishable with more than one year imprisonment., The Applicant shall attach with his or her Application a sworn declaration before a duly licenced Commissioner for Oaths, lawyer or notary public that the said information that he has provided is true and correct.

(j) Where a document is required to be produced under these Regulations in support of an Application:

(i) such document must be an original document or if not an original it must be a Certified Copy; and

(ii) the person certifying the document shall provide the following information: full name, capacity in which the person is acting, residential or business address, telephone number and email address.

Comment [CK2]: This is a defined term so better to use this here

(2) In the circumstances of Applicants who may be subject to politically motivated charges or convictions, the Minister may exercise discretion on accepting Applications from such persons on a case by case basis.

6. An Applicant who—

- (a) has provided false information on his or her Application;
- (b) has a criminal record;
- (c) is the subject of a criminal investigation;
- (d) is a potential national security risk to Malta;
- (e) is involved in any activity likely to cause disrepute to Malta; or
- (f) has been denied a visa to a country with which Malta has visa-free travel arrangements and who has not subsequently obtained a visa

Ineligible Applicants

Application
process.

to the country that issued the denial,

shall not be approved for citizenship under the Programme, unless Identity Malta is satisfied that the Applicant is still worthy of being considered for approval due to special circumstances to be demonstrated by the Applicant. In such event, Identity Malta shall issue a reasoned opinion as to why such Applicant should still be considered for approval and shall refer such Application to the Minister, who will have the sole authority to grant such approval.

7. (1) Every Application shall be presented to and examined by the Concessionaire.
- (2) The Concessionaire shall cause due diligence checks to be performed by one or more internationally recognized specialised due diligence agents approved by Identity Malta, in respect of every Applicant.
- (3) Where a duly licensed lawyer or notary public certifies a document to be a true copy of the original that document must be authenticated by—
 - (a) an apostille in accordance with the provisions of the Hague Convention of 5th October 1961 Abolishing the Requirement for Legalisation for Foreign Public Documents, in the case of a jurisdiction that is a party to that Convention; or
 - (b) validation of the certificate of the lawyer or notary public by the appropriate government department in the case of a jurisdiction that is not a party to that Convention; or
 - (c) validation of the certificate by a Maltese consular or diplomatic representation in the case of a jurisdiction that is not a party to that Convention.
- (4) Within ninety days of the presentation of an Application for citizenship which is accepted as complete, the Concessionaire shall notify Identity Malta in writing, that—
 - (a) the Application has been accepted as formally correct;
 - (b) all relevant information provided by the Applicant has been verified by one or more independent due diligence agent;
 - (c) the background of the Applicant and Dependants, if applicable, has been verified by one or more independent due diligence agent;
 - (d) all required due diligence fees, passport fees and bank charges fees as well as a Non-Refundable Payment of ten thousand Euros towards the Contribution has been paid to and received by the Concessionaire;
 - (e) the source of all funds have been verified; and
 - (d) an appropriate risk weighting has been carried out.

The Concessionaire shall accompany this notification with a recommendation to approve in principle or deny the Application.

- (5) Within thirty days of the submission of a notification and recommendation from the Concessionaire pursuant to sub-regulation 7(4) hereof, Identity Malta shall review the Application submitted by the Concessionaire, carry out appropriate further background checks, and shall notify the Concessionaire in writing, in accordance with the Minister's instructions, that the Application has been—
 - (a) approved in principle;

- (b) refused; or
- (c) delayed for cause and still being processed.

(6) A personal interview with an Applicant shall not be a mandatory requirement but may be recommended by the Concessionaire and, or considered by Identity Malta, on a case-to-case basis, if deemed necessary in a particular case. The procedures applicable to personal interviews shall be determined by Identity Malta.

(7) Within five days of the approval in principle under subregulation (5)(a) the Concessionaire shall instruct the Main Applicant to remit the Contribution less the Non-Refundable Payment already received, to be received within a twenty days from such instruction. Upon receipt of the Contribution less the Non-Refundable Payment by the Concessionaire, the Concessionaire shall confirm this to Identity Malta and request Identity Malta to request the Minister to issue a certificate of naturalisation. (8) Within five days of such confirmation from the Concessionaire that all necessary payments have been received and request to Identity Malta to obtain the grant of citizenship and the issuance of Certificates of Naturalisation, The Minister shall, provided that the Applicant has taken the oath of allegiance, issue a certificate of naturalisation in the name of the Applicant. Identity Malta shall obtain the grant of citizenship from the Minister and deliver to the Concessionaire the Certificates of Naturalisation for each Applicant under the relevant Application.

Refund of fees and Contribution.

(9) Within five days of receipt of these Certificates of Naturalisation, the Concessionaire shall arrange for the distribution of funds held to Identity Malta and the National Development Fund, respectively.

8. (1) The due diligence fees and bank charges fees are not refundable;

(2) The Non-Refundable Payment is not refundable; in the event of an Application having been denied, the Non-Refundable Payment is to be disbursed by the Concessionaire within five days to Identity Malta to cover its own costs relating to the denied Application;

(3) The Contribution balance, once received in Malta, is not refundable after the letter of approval in principle has been issued.

Dissemination of information.

(4) Passport fees are refundable if passports are not applied for.

10. No person, except Identity Malta or the Concessionaire, shall for gain and without being duly authorised advertise, publish or disseminate publicly through any means whatsoever any information relating to the Programme.

Withdrawal of citizenship.

11. Without prejudice to the provisions of article 14 of the Act, the Minister shall in all cases be deemed to have reserved the right to deprive a person of his Maltese citizenship granted under the Programme if an Applicant who has been granted citizenship, has become a threat to national security or is involved in conduct which is seriously prejudicial to the vital interests of Malta.

Forms and
procedural
guidelines

12. Identity Malta shall issue procedural guidelines to specify the operational aspects and interpretations under these Regulations from time to time

Fees

13.(1) The fees set out in the Schedule to these regulations shall be paid for the matters therein respectively specified.

(2) The provisions of the Fees Ordinance shall apply to the said fees as if they were fees prescribed under the said Ordinance.

SCHEDULE 1

Regulations 4(1)(b)

Contribution Requirements and Schedule of Fees

1. Contribution Requirements

The following contributions shall be required as a minimum to qualify for citizenship under the programme:

(a) Main Applicant: EUR 650,000 (Six Hundred and Fifty Thousand Euros), of which a Non-Refundable Payment of EUR 10,000 (Ten Thousand Euros) shall be remitted as a non-refundable deposit prior to submission of the application.

(b) Spouse: EUR 25,000 (Twenty Five Thousand Euros)

(c) Children below 18 years of age: EUR 25,000 (Twenty Five Thousand Euros) each

(d) Unmarried Children between 18 years of age and 25 years of age:
EUR 50,000 (Fifty Thousand Euros) each

(e) Dependant parent above 55 years of age: EUR 50,000 (Fifty Thousand Euros) each

2. Schedule of Fees

The following fees shall be payable under each Application:

(1) Due diligence fees

(a) Main Applicant: EUR 7,500 (Seven Thousand Five Hundred Euros)

(b) Spouse: EUR 5,000 (Five Thousand Euros)

(c) Children below 18 years of age: EUR 3,000 (Three Thousand Euros) each

(d) Unmarried Children between 18 years of age and 25 years of age: EUR 5,000 (Five Thousand Euros) each Dependent

(e) Dependant parent above 55 years of age: EUR 5,000 (Five Thousand Euros) each

(2) Expedited passport fees and bank charges fees

(a) Passport fee: EUR 500 per person

(b) Bank charges fee: EUR 200 per Application

(3). The contribution requirements and the fees stipulated in this Schedule shall apply in respect of applications and grants of citizenship under the individual investor programme notwithstanding the provisions of any other regulations.