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The International Comparative Legal Guide to:

Corporate Immigration 2016

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A practical cross-border insight into corporate immigration law

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Malta

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1 Introduction

1.1 What are the main sources of immigration law in your jurisdiction?

The main sources of immigration law in Malta are:

1. The Constitution of Malta.
2. The Immigration Act – Cap 217.
3. The Employment and Industrial Relations Act – Cap 452.
4. The Employment Commission Act – Cap 267.
5. The Employment and Training Services Act – Cap 343.
6. The Maltese Citizenship Act – Cap 188.
7. The Refugees Act – Cap 420.
8. The European Union Act – Cap 460.
9. EU Regulations and Directives.

1.2 What authorities administer the corporate immigration system in your jurisdiction?

The authorities which deal with the corporate immigration system in Malta are the Central Visa Unit and the Department of Citizenship and Expatriate Affairs, which form part of the Identity Malta agency. Employment licences are then handled by the Employment and Training Corporation in Malta, whilst other employment-related issues are dealt with by the Department for Industrial & Employment Relations (including posted workers).

1.3 Is your jurisdiction part of a multilateral agreement between countries (EU/NAFTA/MERCOSUR) which facilitates the movement of people between countries for employment purposes?

Malta has been a member of the European Union (EU) since 2004. In accordance with Article 45 of the Treaty on the Functioning of the EU, every EU citizen has the right to live and work in another Member State (MS). This right protects EU citizens from being discriminated against when compared to their colleagues who are nationals of the MS in which they work. Malta also gives effect to the rights of EU citizens under Directive 2004/28 (the Citizenship Directive), and the decisions of the European Court of Justice (ECJ). Malta implements the decision of the ECJ of Vander Elst, where the ECJ stated that, in accordance with the principle of *freedom to provide services* and the principle of *non-discrimination*, a non-EU national who is employed by a company in one EU country must be allowed to provide services to a company in another EU country for

a limited period without the need for a work permit. Under the EEA agreement, all these rights are also broadly extended to citizens of Norway, Iceland, Liechtenstein and Switzerland.

Malta is part of the Schengen area, which is a visa-free area with no internal border controls, made up of 22 EU Member States and four additional European countries which are also EFTA member states: Iceland; Liechtenstein; Norway; and Switzerland.

The visa facilitation agreements currently in force between the EU and certain third countries apply also to Malta. These agreements have been signed with Albania, Bosnia and Herzegovina, Macedonia, Georgia, Moldova, Montenegro, Serbia, Russia and Ukraine. These agreements focus on facilitating procedures for obtaining of visas, reducing visa fees, issuance of multiple-entry visas for specific categories of applicants, and shorter processing times.

2 Business Visitors

2.1 Can business visitors enter your jurisdiction under a relevant visa waiver programme?

Third-country nationals travelling to Malta for business purposes still require a visa to enter Malta. However, Malta is part of the US visa waiver programme and therefore no visa is required for business visitors from the US. Apart from this, Annex 1 of the Visa Code lists a number of nationalities that do not require a visa to enter Malta for whatever purpose. An entry visa is issued or refused according to various factors including the supporting documents submitted, the outcome after the applicant is interviewed, previous visas issued and refused, previous hosts, and the purpose of the visa.

2.2 What is the maximum period for which business visitors can enter your jurisdiction?

Third-country nationals on a business visit who are visa-exempt can remain in the Schengen area for a maximum of 90 days within 180 days.

2.3 What activities are business visitors able to undertake?

Business visitors are able to undertake those activities for which such a visa was issued. The activities that can be carried out under a business visa are as follows:

1. Business meetings.
2. Market study.

3. Conference attendance.
4. Other business activities.

The Schengen visa is not valid as a work permit and therefore it does not allow the holder to work in Malta. In order to be able to work in Malta, one would need an employment licence.

2.4 Are there any special visitor categories which will enable business visitors to undertake work or provide services for a temporary period?

Yes, following the Van Der Elst process in accordance with the principles of freedom to provide services and the principle of non-discrimination, a non-EU national who is employed by a company in one EU country must be allowed to provide services to a company in another EU country for a limited period without the need for a work permit. A third-country national worker must be employed by a posting undertaking that is established in an EU/EEA country. Such posted worker must hold an employment licence issued in the country where the undertaking which is posting the worker is established.

The undertaking posting the worker is to notify the Director of Industrial and Employment Relations (DIER) of its intention to post a worker in Malta. If the worker already holds a Schengen residence permit, he can enter Malta without applying for a visa. If, on the other hand, the worker holds a residence permit issued by a non-Schengen country, he must apply for the relevant visa at the Maltese Embassy or Consulate in the country of residence.

2.5 Can business visitors receive short-term training?

Yes, there are no provisions in Maltese law which exclude business visitors from receiving short-term training, provided that their stay in Malta is legal.

3 Immigration Compliance and Illegal Working

3.1 Do the national authorities in your jurisdiction operate a system of compliance inspections of employers who regularly employ foreign nationals?

The Maltese Employment and Training Corporation (ETC), also known as JobsPlus, established a Law Compliance Unit which plays an important role in identifying abuses by taking action against foreigners working without the required employment licences and against employers who fail to notify the employment corporation on employing a new employee.

The Law Compliance Unit has established a freephone number and an online form where members of the general public can lodge a report on illegal work. ETC Inspectors conduct their inspections by following up anonymous hotline reports received either from calls or through the ETC website's Law Compliance link, or during routine inspections conducted either by business sector or by area.

3.2 What are the rules on the prevention of illegal working?

Part VIII of the ETC Act Cap 343 of the Laws of Malta deals with enforcement, offences and penalties. This act empowers ETC inspectors to deal with cases of illegal work and gives them the authority to enter freely without notice any premises or place of work, to carry out examinations, tests, investigations and to interrogate the employer or the employees on any alleged illegalities.

3.3 What are the penalties for organisations found to be employing foreign nationals without permission to work?

Legal Notice 110 of 1993 provides the penalties involved for organisations employing foreign nationals without a work permit. Article 7 of this Legal Notice holds that: *"Any employer who employs any person who is not a citizen of Malta (or of another Member State), other than such person as may be in possession of a work permit, shall be guilty of an offence and shall be liable on conviction to a fine of not less than one hundred and sixteen euros and forty-seven cents (EUR 116.47) and not exceeding one thousand one hundred and sixty-four euros and sixty-nine cents (EUR 1,164.69), and the Court may, in addition to such punishment, order the suspension or cancellation of any licence held by the offender and relating to trade or business, or relating to any business premises where the persons are employed."*

Such instances are also reported to the Immigration Police as they constitute a violation of the provisions of the Immigration Act, Cap 217 of the Laws of Malta, and the employer would be subject to prosecution and penalties while the foreign national concerned may be removed from Malta.

Employers found guilty by the Courts of Law of illegally employing third-country nationals will be barred from applying for any new or renewed licence for 12 months.

4 Corporate Immigration – General

4.1 Is there a system for registration of employers who wish to hire foreign nationals?

In order for an employer to hire employees of any nationality, he needs to obtain a PE Number and register with the Department of Inland Revenue as an employer. This is the first step to enable the employer to withhold, remit and report the income tax and National Insurance of employees according to the final settlement system (FSS). Every employer in Malta needs to register through the Private Employer Registration Form within 15 days from when the first emoluments due to be paid by him to his employees are due. A separate registration to be able to hire foreign nationals is not required.

4.2 Do employers who hire foreign nationals have ongoing duties to ensure immigration compliance?

The employer is obliged to make sure that third-country nationals employed with him all have a valid employment licence in place and that this is renewed on an annual basis. The employer is also obliged to inform the authorities of any changes in the status or personal details of any employee (and not just of foreign nationals), apart from ensuring that they remain in compliance with payments due as National Insurance and tax through the Final Settlement System (FSS). The FSS is a tax deduction methodology designed to produce accurate tax deductions, ensuring that tax is deducted from employees' emoluments and the relevant amounts are paid to the Inland Revenue Department and Social Security Department respectively.

4.3 Do the immigration authorities undertake routine inspections of employers who sponsor foreign nationals, to verify immigration compliance?

Inspections of employers in Malta are not conducted by the immigration authorities but by the ETC as per question 3.2 above.

4.4 Do the immigration authorities maintain a list of skilled occupations which may be filled by foreign nationals?

The authorities do not maintain a list of skilled occupations in order to encourage foreign nationals to apply for these occupations; however, the authorities provide a list of what are known as “regulated professions”, which would involve a more thorough analysis of the documentation required for the employment licence application.

4.5 Is there a recognition that some occupations may be in short supply and do special exemptions apply to certain sectors and occupations?

There are no special exemptions for certain sectors or occupations; however, ETC takes into account the situation of the labour market before making a determination about a particular employment licence, and for certain sectors the documentation required is different or the procedures more stringent.

In the case of applications for highly qualified employment, applications will generally be considered favourably, albeit in line with the labour market situation. To be treated as highly qualified employment, applications must illustrate clearly that certain conditions will be met by the third-country national concerned, which include the following:

- he/she must hold qualifications at ISCED6 levels 5a, 6 or above, which must be validated by the Malta Qualifications Council;
- he/she must hold any documents necessary in the case of regulated professions; and
- he/she must have an offer of a job which may be considered highly qualified employment and which involves the payment of at least 1.5 times the average gross annual salary as defined in the most recent Labour Force Survey issued by the National Statistics Office.

The Inland Revenue Department in Malta also offers tax incentives under the Highly Qualified Persons Rules, such as a flat rate of taxation on employment income. This attracts highly qualified persons in particular sectors, and therefore when the application for an employment licence is made by a third-country national for these occupations, the authorities will consider the application favourably. The Highly Qualified Persons Rules apply to the following industries: financial services; gaming; and aviation.

With respect to family members of diplomats stationed in Malta, applications are referred to the Ministry of Foreign Affairs in view of the possible existence of reciprocity agreements. Where no such agreements are in place, applications are subject to labour market considerations.

In respect of home-based carers, applications are at present not subject to a labour market test. However, a medical certificate declaring that the applicant requires a full-time carer to meet his/her daily needs must be submitted with the application.

In respect of culture and entertainment, the employer does not need to provide evidence of a search for EEA/Swiss/Maltese candidates. He or she does, however, have to elaborate in the covering letter on the reasons for the choice of the third-country nationals concerned.

In respect of steel fixers, form work erectors and concrete shutterers, evidence of work contracts is necessary. Employers may be required to actively participate in Open Days held by ETC and to interview suitable EEA/Swiss/Maltese candidates on request. Failure to do so may result in the non-issue of employment licences and/or the revocation of current ones.

In respect of cleaners and room attendants, evidence of work contracts is necessary. Employers may be required to actively participate in recruitment drives held by ETC, and to interview suitable EEA/Swiss/Maltese candidates on request. Failure to do so may result in the non-issuance of employment licences and/or the revocation of current ones. In respect of chefs in restaurants offering ethnic cuisine, the policy is as follows (the prior approval of the Malta Tourism Authority is required in each case): outlets with up to 30 covers may apply for up to two third-country nationals; outlets with up to 100 covers may apply for up to three third-country nationals; and outlets with over 100 covers may apply for up to four third-country nationals. Applications from employers that engage the services of EEA/Swiss/Maltese nationals as part of their staff complement will assist in the favourable consideration of an application.

In respect of sportspersons, ETC will obtain the prior approval of the Malta Council for Sports. In the case of footballers, a copy of the contract of work submitted to the Malta Football Association would need to be submitted with the application for the issuing of a licence.

In respect of foreign minors applying to work in film productions, these applications are referred to the discretion of the Department of Industrial and Employment Relations (DIER) and a licence is given upon DIER consent.

The ETC in Malta adopts a less bureaucratic procedure for “Intra-Company Transferees”, which refers to employees of foreign companies which would be posted in Malta for no longer than one year to render a specialised service or training to Maltese employees.

4.6 Are there annual quotas for different types of employment-related work permits or visas?

At the moment there are no annual quotas.

4.7 Are there restrictions on the number of foreign workers an employer may sponsor, in relation to a maximum percentage of foreign workers in the employer's workforce?

There are no restrictions on the number of foreign workers an employer may sponsor. In each application, the authorities will conduct a labour market test in order to determine whether the post can be filled in by a Maltese or an EU/EEA national. There are certain posts (such as cleaners or waiters) where, due to a lack of local workforce, this labour market test is not conducted and the employer is free to employ third-country nationals.

4.8 Are employees who are sponsored to work in your jurisdiction required to demonstrate language proficiency?

Third-country nationals sponsored to work in Malta would be required to show English language proficiency if it is also a requisite of the relevant area of employment.

4.9 Are employees who are sponsored to work in your jurisdiction required to undergo medical examinations before being admitted?

In the case of third-country nationals coming from high-risk TB countries, health clearance is necessary. On receiving an application, ETC sends a health form to the employer, so that clearance is first obtained from a health centre. In the case of third-country nationals

already in Malta at the time of application, health clearance is to be obtained before the employment licence can be issued. In the case of third-country nationals still abroad when the application is submitted, health clearance is to be presented to ETC within three months of the issue of the employment licence, or their entry into Malta. If such clearance is not presented, the licence will be revoked and the immigration authorities will be alerted accordingly.

4.10 Are employees who are sponsored to work in your jurisdiction required to have medical insurance or are they entitled to any free public medical services?

It is necessary for an employer to take out private health insurance for employees who are sponsored to work in Malta, to cover the full duration of employment. The employer is to provide a copy of the receipt for the insurance premium within three months from the date the licence is issued, failing which the licence will be revoked. Such health insurance is not required for home-based carers, for persons working with persons with disability and persons needing constant care, or for third-country nationals working in the public service.

4.11 Does the work permit system allow employees who hold work permits to be seconded to a client site?

Employees holding a work permit in Malta can be seconded to a client site, provided that they are still directly employed by their original employer. The work permit in Malta is strictly tied to the specific employer, and a new work permit should be applied for whenever the employee is employed by a new company.

5 Highly Skilled Visas

5.1 Is there an immigration category which covers highly skilled individuals?

Please refer to question 4.5 above.

6 Investment or Establishment Work Permits

6.1 Is there an immigration category which permits employees to be authorised to work based on investment into your jurisdiction?

There are categories of work permits which are issued on the basis of investment in Malta. These are the self-employed work permit and the work permit for a shareholder or ultimate beneficial owner of a company.

In order to qualify for self-employed status, a third-country national must meet one or more of the following criteria:

- He/she must make an investment in Malta of capital expenditure of at least EUR 100,000 within six months from when the licence is issued. The capital expenditure shall solely consist of fixed assets (such as immovable property or plant and machinery) used for the business purposes as indicated in the business plan submitted with the application, and needs to be supported by receipts.
- Highly skilled innovators must submit a sound business plan whereby they commit to recruit at least three EEA/Swiss/Maltese nationals within 18 months of establishment.

- He/she is the sole representative of an overseas company (with a sound reputation and established for at least three years abroad).
- He/she is leading a project that has been formally approved by Malta Enterprise and formally notified to the Employment and Training Corporation.

Applications containing a firm commitment *re* the engagement of EEA/Swiss/Maltese nationals as part of the staff complement will assist in the favourable consideration of an application.

Where the Malta-resident company is applying for an employment licence to employ its shareholder or ultimate beneficial owner, the applicant must meet one or more of the following criteria:

- every TCN shareholder must have a fully paid-up share capital of at least EUR 100,000 which may not be redeemed, reduced or transferred to a third party during the first two years following the issuing of the employment licence;
- he/she must have made a capital expenditure of at least EUR 100,000 that is to be used by the company. Capital expenditure shall solely consist of fixed assets (such as immovable property, plant and machinery) used for business purposes as reflected in the business plan submitted with the application. Rental contracts do not qualify. Such expenditure needs to be supported by receipts in the company's name;
- the company is a sole representative of an overseas company (with a sound reputation and established for at least three years abroad) wishing to open a branch in Malta. Evidence of representation is required; and
- the company is leading a project that has been formally approved by Malta Enterprise and formally notified by the latter to ETC.

Applications containing a firm commitment *re* the engagement of EEA/Swiss/Maltese nationals as part of the staff complement of the company will assist in the favourable consideration of an application.

7 Temporary Work Permits

7.1 Is there an immigration category permitting the hiring of temporary workers for exchanges, career development, internships or other non-economic purposes?

All Maltese work permits are temporary, issued for a maximum of one year by the ETC, and therefore there is no specific immigration category catering for these classes.

7.2 Are there sector-specific temporary work permit categories which enable foreign workers to perform temporary work?

Employment licences are only issued in respect of workers who will normally or habitually be carrying out work in Malta (i.e. more than six months in a year). An employer who wishes to employ a worker who will carry out his work primarily in another country need not apply for an employment licence.

An undertaking which is established in an EU Member State other than Malta may send a posted employee (who does not normally work in Malta but who for a limited period of time is sent by the foreign undertaking to work in Malta):

1. On their account and under their direction, under a contract concluded between the undertaking making the posting and the party for whom the services are intended, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting.

2. Being temporary employment undertakings or placement agencies, hiring out a worker to a user undertaking established or operating in Malta.

The conditions required are explained in section 8 below.

Furthermore, foreign nationals who are non-resident in Malta, and non-executive directors of Malta-resident companies who satisfy the below conditions, do not require an employment licence:

- they do not ordinarily reside in Malta;
- they do not have an employment relationship with the company; and
- they are in receipt of a director's remuneration but not in receipt of a salary.

8 Group or Intra-Company Transfer Work Permits

8.1 Does a specific immigration category exist for inter-company transfers within international groups of companies?

There is no specific immigration category for inter-company transfers within international groups; however, a foreign undertaking may send posted employees to an establishment or to an undertaking in Malta which is owned by the foreign undertaking. This would fall under the posted worker rules which cater for all posted worker scenarios and not just where the undertakings are concerned. Posting of workers in Malta is regulated by Legal Notice 430 of 2002 – Posting of Workers in Malta Regulations. These regulations apply to foreign undertakings which:

- send posted employees to Malta on their account and under their direction, under a contract concluded between the undertaking making the posting and the party for whom the services are intended, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting;
- send posted employees to an establishment or to an undertaking in Malta which is owned by the foreign undertaking, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or
- being temporary employment undertakings or placement agencies, hire out a worker to a user undertaking established or operating in Malta, provided there is an employment relationship between the temporary employment undertaking, or placement agency, and the worker during the period of posting.

In these cases, the employee who is posted from an EU/EEA country is not required to apply for an employment licence in Malta.

8.2 What conditions must an employing company or organisation fulfil in order to qualify as part of a group of companies?

The undertaking in Malta must be owned by the foreign company.

8.3 What conditions must the employer fulfil in order to obtain a work permit for an intra-company group employee?

An employee posted from an EU/EEA country is not required to apply for an employment licence in Malta.

In the case of a third-country national (TCN) employee who is employed by a posting undertaking that is established in an EU/

EEA country, there is no need to go through an employment licence procedure in Malta if such posted worker already holds a licence issued in the country where the posting undertaking is established.

For any foreign national who is posted in Malta by an undertaking established outside an EU/EEA country, an employment licence is required to be issued by the Employment and Training Corporation.

8.4 What is the process for obtaining a work permit for an intra-company group employee?

For an employee posted to Malta, the undertaking posting the worker is obliged to notify the Director of Industrial and Employment Relations (DIER) of its intention to post a worker on the island. The Notification Form, accompanied by a copy of the posted worker's employment contract (with the posting undertaking) and also, in the case of a TCN posted employee from an EU/EEA country, by a copy of his existing working licence, should reach the DIER prior to the commencement of the posting. The undertaking making use of the services of the posted worker is obliged to keep a copy of such Notification Form at the place of work for the purposes of monitoring by the inspectors of the DIER.

8.5 What is the process for the employee to obtain a visa under the intra-company group transfer category?

If the worker already holds a Schengen residence permit, he can enter Malta without applying for a visa. If, on the other hand, the worker holds a residence permit issued by a non-Schengen country, he must apply for the relevant visa at the Maltese Embassy or Consulate in the country of residence.

8.6 How long does the process of obtaining the work permit and initial visa take?

The initial visa process normally takes from seven to 10 days, subject to further checks conducted by the relevant authorities.

8.7 How long are visas under the "initial" category valid for, and can they be extended?

Third-country nationals who wish to enter Malta in order to work (and/or study) must be in possession of a national long-stay "D" visa for periods longer than three months (90 days).

8.8 Can employees coming under the intra-company transfer route apply for permanent residence?

They can apply for long-term residence in accordance with procedure explained under question 12.1 below.

9 New Hire Work Permits

9.1 What is the main immigration category used for employers who wish to obtain work permits for new hires?

Malta has successfully implemented Directive 2011/98/EU "on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State". The "single permit" application is the most

common path taken to employ third-country nationals in Malta. Single permit is a process which leads to receipt of an e-residence card, which is an employment licence and residence permit in one. The Directive leaves outside of its scope certain categories of employees (posted workers, intercompany transferees, workers with special humanitarian status and others); such categories should first seek to obtain an employment licence and then, on the basis of this, a residence permit.

9.2 Is there a requirement for labour market testing, to demonstrate that there are no suitable resident workers, before a work permit can be issued to new hires?

Yes, the Malta Employment and Training Corporation does the testing in-house after receipt of either the employment licence application or the single permit application. No input from the prospective employee or employer is needed.

9.3 Are there any exemptions to carrying out a resident labour market test?

Yes, for holders of a permanent resident permit, home-based carers, cleaners and waiters, the labour market test does not have to be carried out. Highly qualified employment applications are also generally considered favourably. In respect of culture and entertainment, the employer does not need to provide evidence of a search for EEA/Swiss/Maltese candidates. In respect of family members of diplomats stationed in Malta, applications are referred to the Ministry of Foreign Affairs of Malta in view of the possible existence of reciprocity agreements.

9.4 What is the process for obtaining a work permit for a new hire?

Applications may be submitted either whilst the third-country national (prospective employee) is residing in Malta or whilst he/she is abroad, provided that, if the person is in Malta or in the European Union, he/she is legally residing therein.

Third-country national is residing legally in Malta

In this case, the application, together with supporting documentation, has to be submitted personally, and during that visit biometric data will be taken. The person is required to proceed to the Department for Citizenship and Expatriate Affairs for such purpose.

Third-country national is residing in a third country

If the person is still residing abroad, the application and all documentation relating to it have to be submitted by post. If the application is accepted, he/she will be notified of the outcome, and in the case that it is approved following his/her arrival in Malta, he/she will be required to proceed to the Department for Citizenship and Expatriate Affairs in order that the relevant biometric data is captured, and the applicant is issued with the residence permit in question. Applicants wishing to be admitted to Malta in order to work here, those already residing in Malta or those wishing to renew their authorisation to work are required to submit a Form C.

9.5 What is the process for the employee to obtain a visa under the intra-company group transfer category for a new hire?

In terms of the application for an employment licence, there is no special treatment of inter-company transferees. Their prospective

employers must apply directly to the employment authority (ETC) for employment licences. Inter-company transferees are excluded from the scope of the Single Permit Directive.

9.6 How long does the process of obtaining the work permit and initial visa for a new hire take?

The Maltese authorities shall adopt a decision on the complete employment licence application, as soon as possible, and in any event within four months of the date on which the application was lodged.

The above refers to the obtainment of permission to work in Malta. If the prospective employee is still outside Malta, he/she needs to apply for an entry visa, which might take from five days to three months depending on the nationality of the applicant.

9.7 How long are initial visas for new hires granted for and can they be extended?

Visas are granted for a period of 90 days. Upon arrival in Malta, the employee is obliged to apply for a residence permit on the basis of employment. The residence permit will be issued in four to eight weeks and will cover the whole period of validity of the employment licence.

9.8 Is labour market testing required when the employee extends their residence?

Residence and employment are treated as separate matters. An employee may extend his/her residence in Malta on the basis of various factors other than employment, for example self-sufficiency. Should the employee seek to renew his/her employment licence, then a labour market test will be applied again.

9.9 Can employees coming as new hires apply for permanent residence?

Employees can apply for long-term residence after five years of holding an employment licence in Malta and five consecutive years of residence in Malta.

10 Conditions of Stay for Work Permit Holders

10.1 What are the conditions of stay of those who obtain work permits and are resident on this basis?

An employment licence obliges the employee to apply for a Maltese e-residence card within three months of arrival in Malta. The card is equivalent to a Schengen residence permit and serves as an Identity Card for the Maltese Islands. Therefore, an employment licence holder is considered a Maltese resident in terms of the Malta Immigration Act.

10.2 Are work permit holders required to register with municipal authorities or the police after their arrival?

No, this registration is done automatically by virtue of the application for an e-residence card.

11 Dependants

11.1 Who qualifies as a dependant of a person coming to work on a sponsored basis?

There are no formal rules on the qualification of dependants; however, they are able to apply for an e-residence card.

Family members of long-term residents (LTRs) who acquire a residence permit under the Family Reunification Regulations (LN150 of 2007) are entitled to apply for an employment licence to work in Malta. From the 13th month after reunification, family members of LTRs are entitled (in the same way as the LTR him/herself) to access to employment and to self-employment, without the need for labour market considerations. In this instance, “family members” refers to: (a) the LTR’s spouse who is aged 21 or over; (b) the unmarried minor children of the LTR and of his spouse, including children adopted in a manner recognised by Maltese law; and (c) the unmarried minor children, including adopted children, of the LTR or of the spouse, as the case may be, where the sponsor or the spouse has custody and the children are dependent upon him/her.

11.2 Do civil/unmarried or same-sex partners qualify as family members?

Yes, for civil law purposes.

11.3 Do spouses and partners have access to the labour market when they are admitted as dependants?

This is not applicable.

11.4 Do children have access to the labour market?

Generally no, with some exceptions in the case of professional entertainers.

12 Permanent Residence

12.1 What are the conditions for obtaining permanent residence?

In order to obtain long-term residence, one has to submit an application and must satisfy the following conditions for the grant of such status:

- The applicant must have resided in Malta for a period of at least five consecutive years.
- The absences from Malta must be shorter than six consecutive months and must not exceed a total of 10 months within the five-year period.

When applying for long-term resident status the applicant would need to provide evidence that he has:

- stable and regular resources which are sufficient to maintain him/herself and the members of his/her family without recourse to the social assistance system in Malta or to any benefits or assistance of any type payable under the Social Security Act;
- appropriate accommodation, that is not shared with any other person or persons not being family members, regarded as normal for a comparable family in Malta and which meets the standards published via a notice in the Gazette by the Ministry responsible for housing;
- sickness insurance in respect of all risks normally covered for Maltese nationals for him/herself and the members of his/her family;
- a valid travel document; and
- obtained a pass mark of at least 75 per cent after being assessed by the competent authorities to have achieved the equivalent of Malta Qualifications Framework Level 2 in either Maltese or English, and provide evidence that the necessary fees charged in relation to the courses, examinations and certificates referred to above have been paid.

12.2 Is it possible to switch from a temporary work visa to a work visa which leads to permanent residence?

The applicant would need to go through the application and satisfy the conditions mentioned in question 12.1 in order to obtain long-term residence.

13 Bars to Admission

13.1 What are the main bars to admission for work?

The main bars to admission for work are lack of police clearance, health clearance (infectious diseases) or lack of clearance from stakeholders (Malta Tourism Authority for chefs; Malta Sports Council for sportspersons, etc.).

13.2 Are criminal convictions a bar to obtaining work permission or a visa?

Lack of police clearance is a bar for the issuance of both an entry visa to Malta and an employment licence.

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Priscilla has experience in advising UHNWI with their wealth structuring and wealth preservation strategies. Working closely with the firm's significant international client base, she provides tailor-made, tax-efficient solutions through trusts and corporate structures set up in Malta and Cyprus. She is also heavily involved in executive relocation planning and related legal and tax matters.



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