
CHAPTER 217
IMMIGRATION ACT

To restrict, control and regulate immigration into Malta and to make provision for matters ancillary thereto.

21st September, 1970

ACT IX of 1970, as amended by Acts: XLIV of 1972, XLIX of 1981, VIII of 1982, XIII of 1983, XXXIII of 1988, XXV of 1989, VIII of 1990, XXIV of 1995, IV and IX of 2000, XXIII of 2002, and VIII of 2004; and Legal Notice 248 of 2004.

ARRANGEMENT OF ACT

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PART I

PRELIMINARY

- Title. 1. The title of this Act is Immigration Act.
2. In this Act, unless the context otherwise requires -
- Interpretation.
Amended by:
XXV. 1989.2;
VIII.1990.3;
IX.2000.7;
XXIII. 2002.3;
L.N. 248 of 2004.
- "Board" means the Immigration Appeals Board constituted by article 25A;
- "Border Agreement" means an agreement to which Malta is a party or any rule in or under the Treaty providing for common border controls and free entry and exit of persons lawfully with the territory, into and from each of the territories of the Member States or States parties to the agreement, and Border Agreement State and citizen of a Border Agreement State shall be construed as such;
- "carrier" means any person whose occupation is to provide passenger transport by air, sea or land;
- "citizen of a Member State" means a citizen of a state party to the Treaty;
- "dependant" in relation to another person means -
- (a) the child or step-child of such person, if the child or the step-child is under the age of twenty-one years;
 - (b) an adopted child under the age of twenty-one years, having been adopted by such person in a manner recognised by law;
 - (c) a parent or grandparent of such person who proves to the satisfaction of the Principal Immigration Officer that he is wholly maintained by the said person;
 - (d) any other member of the family as may be prescribed by the Minister;
- "deportation order" means an order made under article 22;
- "to embark" includes departure by any form of conveyance;
- Cap. 460. "European Union" has the meaning assigned to it in the European Union Act;
- "exempt person" means any person to whom Part IV of this Act does not apply in accordance with article 4 of the same Act;
- "implied condition" means a condition referred to in article 11;
- Cap. 197. "keeper" where used in relation to a hotel means a hotel-keeper as defined in the Hotels and Catering Establishments Act, and, where used in relation to premises where accommodation is provided for reward, includes any person who for reward receives any other person to lodge in the premises either on his own behalf or as a manager or otherwise on behalf of any other person;
- "to land" means to arrive or to enter by any form of conveyance and references to landing, unless the context otherwise requires, include references to attempting to land;
- "Malta" means the Island of Malta, the Island of Gozo and the

other islands of the Maltese Archipelago;

"master of a vessel" includes the captain of an aircraft;

"member of a crew" means any person employed in the working or service of a vessel;

"Minister" means the Minister responsible for immigration;

"passenger" means any person, other than a member of a crew, travelling or seeking to travel on board a vessel;

"passport" means a passport referring to the person who is required to produce the same, furnished with a photograph of such person, which is valid on the date on which the same person seeks entry into Malta and is not due to expire before the proposed date of departure of the same person from Malta, and includes any other similar document establishing the identity and nationality of the person to whom it refers to the satisfaction of the Principal Immigration Officer;

"port" means any place where a person lands in or embarks from Malta and includes an airport;

"prescribed" means prescribed by regulations made under this Act;

"Principal Immigration Officer" means the person appointed to such office by the Prime Minister under article 3, and includes, within the limits of any authority granted by the Principal Immigration Officer under article 3(3), any public officer acting under such authority;

"removal order" means an order issued by the Principal Immigration Officer or the Immigration Appeals Board in accordance with article 14, or the Court of Appeal under article 25A as the case may be;

"residence permit" means a permit issued under article 7(1);

"the Treaty" has the same meaning assigned to it in the European Union Act; Cap. 460.

"vessel" includes aircraft, but does not include a vessel belonging to, or in the service of, the military, naval or air force of any country.

3. (1) The Prime Minister shall, by notice in the Gazette, appoint a public officer to be the Principal Immigration Officer for the purposes of this Act.

Appointment of
Principal
Immigration
Officer.
Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX.2000.7.

(2) The Principal Immigration Officer shall have such powers and duties as are conferred or imposed on him by or under this Act or as may be prescribed for giving effect to this Act:

Provided that in the exercise of his functions under this Act, the Principal Immigration Officer shall act in accordance with the general or special directions of the Minister:

Provided further that it shall not be lawful for any person to enquire in any court whether the Principal Immigration Officer has actually received, or acted in accordance with, any such directions.

(3) The Principal Immigration Officer may authorise in writing any public officer to exercise or perform on his behalf any powers (except the power granted by this sub-article) or duties under this Act or regulations made thereunder.

(4) Authority under the last preceding sub-article may be granted either personally to a public officer or impersonally to any public officer for the time being performing any specific duties in the public service.

PART II

EXEMPT PERSONS

Persons to whom Part IV of Act does not apply.
Amended by:
XLIV. 1972.2;
VIII. 1982.2;
XXXIII.1988.2;
XXV. 1989.3;
IV. 2000.17;
IX. 2000.8;
XXIII. 2002.4.
 Cap. 188.
 Cap. 191.

4. (1) The provisions of Part IV of this Act shall not apply to any person -

- (a) who is a citizen of Malta; or
- (b) who, in accordance with article 44(4) of the Constitution of Malta, is deemed to be a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act; or
- (c) who is entitled to immunities and privileges by virtue or under any provision of the Diplomatic Immunities and Privileges Act; or
- (d) who is a member of the armed forces of a country other than Malta which are present in Malta under and within the scope of arrangements with the government of Malta; or
- (e) who is in Malta in an advisory or consultative capacity to the Government on invitation of the same; or
- (f) who is a dependant of any person referred to in the foregoing paragraphs; or
- (g) who is the spouse of any person referred to in any of the foregoing paragraphs and is still married to and living with that person; and
- (h) who is the widow or widower of any person mentioned in paragraph (a) or (b) and at the time of his or her death was still living with that person:

Provided that the spouse or the dependent of a person referred to under paragraphs (d) and (e) shall not in Malta exercise any profession or occupation or hold any appointment or be employed by any other person or engage in business without, and other than in accordance with the conditions of, a licence from the Minister which the latter may at any time vary or withdraw as he may deem fit, and provided further that such dependant shall cease to be an exempt person if he contravenes this provision or if he does not comply with any of the conditions contained in such licence.

(2) The Minister may by order to be notified to any person

referred to in subarticle (1)(g) and (h) hereof, not being a person to whom subarticle (1)(a) to (f) hereof may refer, declare such person to be no longer an exempt person, if the Minister is satisfied that the grant of such an exemption to such person is not in the public interest, and upon the issue of such an order the provisions of Part III of this Act shall apply to such person. Notwithstanding the foregoing provisions of this sub-article such Order may also be notified to, and apply in relation to, any person referred to in subarticle (1)(f) being a dependant over the age of eighteen years.

(3) The Minister shall not be required to assign any reason for the issue of any order referred to in subarticle (2) and the decision of the Minister on any such order shall not be subject to appeal to or review in any court.

PART III

Special Provisions

*Added by:
XXIII. 2002.6.*

4A. (1) Notwithstanding any other provisions of this Act, the Minister may make regulations to give effect to the Treaty or any Border Agreement to which Malta may be a party and without prejudice to the generality of the foregoing, may make regulations in order to:

*Special provisions.
Added by:
XXIII. 2002.6.
Amended by:
L.N. 248 of 2004.*

- (a) grant and regulate the right of any citizens of a Member State or their dependants to enter, remain and reside in, and leave Malta;
- (b) grant and regulate the right of persons mentioned in the preceding paragraph to seek employment and work in Malta and to establish services and, or provide or receive such services in Malta;
- (c) grant and regulate the rights mentioned in the preceding paragraphs to any person and his dependants who, though not being a person mentioned in paragraph (a), is lawfully in the territory of any state which is bound by a Border Agreement.

(2) Any right granted under this Part shall always be subject to such limitations as may be reasonably justified on grounds of public policy, public security and public health.

PART IV

PROHIBITED IMMIGRANTS

*Substituted by:
XXIII. 2002.5.*

5. (1) Any person, other than one having the right of entry, or of entry and residence, or of movement or transit under the preceding Parts, may be refused entry, and if he lands or is in Malta without leave from the Principal Immigration Officer, he shall be a prohibited immigrant.

*Prohibited immigrants.
Amended by:
XLIX.1981.4;
XXIII. 2002.7.*

(2) Notwithstanding that he has landed or is in Malta with the leave of the Principal Immigration Officer or that he was granted a residence permit, a person shall, unless he is exempted under this Act from any of the following conditions or special rules applicable to him under the foregoing provisions of this Act, be a prohibited immigrant also -

- Cap. 36.
- (a) if he is unable to show that he has the means of supporting himself and his dependants (if any) or if he or any of his dependants is likely to become a charge on the public funds; or
- (b) if he is suffering from mental disorder or is a mental defective; or
- (c) if, having landed in Malta pursuant to or under any regulation made under articles 44 and/or 50 of the Prevention of Disease Ordinance, he is still in Malta after the lapse of the period of fifteen days from the day on which the Superintendent of Public Health certifies in writing that the stay of such person in Malta is no longer required under and for the purpose of such regulation; or
- Cap. 63.
Cap. 101.
- (d) if he is found guilty by a court of criminal jurisdiction in Malta of an offence against any of the provisions of the White Slave Traffic (Suppression) Ordinance or of the Dangerous Drugs Ordinance or of a crime, other than involuntary homicide or involuntary bodily harm, which, in the case of a first crime committed by such person, is punishable with imprisonment for a term of not less than one year or, in the case of a second or subsequent crime committed by such person, is punishable with imprisonment for a term of not less than three months; or
- (e) if he contravenes any of the provisions of this Act or of any regulations made thereunder; or
- (f) if he does not comply or ceases to comply with any of the conditions, including an implied condition, under which he was granted leave to land or to land and remain in Malta or was granted a residence permit; or
- (g) if any circumstance which determined the granting of leave to land or to land and remain in Malta or the extension of such leave or the granting of a residence permit ceases to exist; or
- (h) if such person is a prostitute; or
- (i) if he is a dependant of a person who is a prohibited immigrant under any of the provisions of this sub-article.

Powers of
Principal
Immigration
Officer.
Amended by:
XXIII. 2002.8.

6. (1) Without prejudice to any rights arising from the preceding Parts, for the purposes of this Act, the Principal Immigration Officer may -

- (a) grant leave to land or leave to land and remain in

Malta to any member of a crew intending to continue his journey in the vessel by which he arrives for the period of the vessel's stay in port and on condition that he leaves in the same vessel;

- (b) grant leave to land or leave to land and remain to any other person arriving in Malta, under such conditions and for such period as the Principal Immigration Officer may deem proper to establish;
- (c) grant extensions of the period referred to in the last preceding paragraph by such further periods as in each case the Principal Immigration Officer may deem proper to grant and under such conditions, whether similar to those previously imposed or not, as he may deem proper to establish:

Provided that, unless it is otherwise expressly established, any extension shall be deemed to have been granted under the same conditions which applied, and for a period of the same duration as the period which expired, before such extension was granted.

(2) Unless the Principal Immigration Officer expressly specifies a longer or shorter period, leave granted under paragraph (b) of the last preceding sub-article shall be deemed to have been granted for twenty-four hours in the case of leave to land and for three calendar months in the case of leave to land and remain in Malta.

(3) Notwithstanding the provisions of sub-article (1)(a), where the vessel therein referred to is an aircraft, a member of the crew of such aircraft need not necessarily continue his journey in the aircraft by which he arrived, subject to his leaving Malta within three days of his arrival.

(4) The Principal Immigration Officer shall not refuse leave to land and remain in Malta to any person in respect of whom two medical practitioners of whom at least one shall be a government medical officer certify that such person needs immediate medical or surgical treatment which cannot be deferred without prejudice to his health:

Provided that such leave shall be deemed to have been granted until, and to expire on, the seventh day of the date of a certificate made by a government medical officer to the effect that there is no longer any necessity that such person should remain in Malta for the purpose of or in connection with such treatment.

7. (1) Without prejudice to the provisions of the preceding Parts, the Minister may issue, subject to such conditions as he may deem proper to establish, a residence permit to any person who makes an application for retirement, settlement or an indefinite stay in Malta.

Residence permit.
Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX. 2000.7;
XXIII. 2002.9.

(2) Subject to the provisions of this Act, a residence permit shall confer on the person to whom it is issued the right to land and to remain permanently or indefinitely in Malta.

(3) Any residence permit issued under this Act may be revoked by the Minister for the following reasons:

- (a) when the permit was obtained on the basis of fraud, or omission on the part of the resident at the time of his application for a residence permit of a material fact which, had it been known then, would have reasonably justified the Minister to refuse the application for such permit;
- (b) when, following the grant of a residence permit, the said resident, commits, whether in Malta or outside Malta, a serious crime which, had it been committed prior to the granting of such permit, would have reasonably justified the refusal of such permit by the Minister.

(4) Any person aggrieved by such decision shall have a right to appeal to the Board within ten days from when he is notified of such revocation.

(5) The Minister may make regulations to implement the provision of this article, including, without prejudice to the generality of the foregoing, to regulate any right of appeal to the Board appertaining to a person aggrieved by a decision of the Minister, and any application for residents in Malta to bring to Malta any of their dependants to reside with them.

Visas.
*Substituted by:
XXIII. 2002.10.*

8. (1) Without prejudice to the rights of entry and residence envisaged by the preceding Parts, and to the powers of the Principal Immigration Officer to issue a visa at the border under this Act and in regulations made thereunder, the Principal Immigration Officer shall refuse leave to enter Malta to any person seeking to enter Malta who, in accordance with the provisions of this Act, must be in possession of a visa and who is not in possession of such a visa as is provided for in this article.

(2) The Minister may make regulations in order to -

- (a) list the countries whose nationals will be required to be in possession of a visa for any stay for such period of time as may be prescribed, or whose nationals will be exempted from such requirement;
- (b) regulate all aspects of the issue of visas or other forms of authorisation and make provision for different types of visa including visas for single or multiple entry or re-entry;
- (c) make provision for and regulate the issue of visas at the border;
- (d) make provision for and regulate the revocation of visas;
- (e) regulate the issue and revocation of emergency travel documents to persons who hold the nationality of such states as may be prescribed.

9. (1) Without prejudice to any regulations made under Part III of this Act, leave to land or to land and remain in Malta shall be signified either by a written permit delivered to, or by an appropriate endorsement on the passport of, the person concerned, but the conditions attached to such leave may be contained in a separate document delivered to such person.

Leave to land or to remain in Malta to be signified by permit or endorsement on passport.
Amended by:
XXIII. 2002.11.

(2) The provisions of the last preceding sub-article shall not apply to leave granted for the purposes of sub-article (1)(a), or of article 6(3).

10. (1) Where leave to land is refused to any person arriving in Malta on an aircraft, such person may be placed temporarily on land and detained in some place approved by the Minister and notified by notice in the Gazette* until the departure of such aircraft is imminent.

Temporary detention.

(2) Where leave to land is refused to any person arriving in Malta by any other means, such person at his own request may, with the leave of the Principal Immigration Officer, be placed temporarily on shore and detained in some place approved by the Minister and notified by notice in the Gazette:

Provided that he shall be returned to the vessel by which he is to leave Malta immediately that he makes a request to that effect or that the Principal Immigration Officer so directs, whichever is the earlier.

(3) Any person, while he is detained under sub-article (1) or (2), shall be deemed to be in legal custody and not to have landed.

11. (1) It shall be an implied condition of any leave granted to any person under article 6(1)(a) or, saving the provisions of Part III, of a residence permit issued to any person under article 7(1) that such person shall not in Malta exercise any profession or occupation or hold any appointment or be employed by any other person or engage in business without a licence from the Minister.

Implied conditions.
Amended by:
VIII. 1982.2;
XIII. 1983.5;
XXXIII. 1988.2;
IX. 2000.7;
XXIII. 2002.12.

(2) It shall be an implied condition of any leave granted to any person under article 6(1)(b) or extended under paragraph (c), that such person shall not in Malta exercise any profession or occupation or hold any appointment or be employed by any other person without a licence from the Minister.

(3) The Minister may grant a licence for any of the purposes mentioned in sub-article (1) or (2) for such period and under such conditions as he shall think fit and may at any time cancel or vary the conditions of any such licence.

12. (1) The conditions referred to in articles 6 and 7 may include the furnishing of such security in such form and of such amount, not exceeding five hundred liri, as the Minister or the Principal Immigration Officer, as the case may be, may deem proper to require.

Furnishing of security.
Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX. 2000.7.

(2) Where the security required and furnished for the purpose

*See Legal Notice 193 of 1996.

of the preceding sub-article consists in the deposit of a sum, the sum so deposited may be applied in meeting any charges incurred by public funds for the maintenance of the person in whose favour the security stands or of his dependants or incurred otherwise in connection with him or them while in Malta or for his or their deportation or repatriation, and the balance, if any, or the whole, if no part is applied as aforesaid, shall only be refunded upon the Principal Immigration Officer being satisfied that such balance or the whole deposit is no longer required for the purpose of ensuring compliance with the provisions of this Act or of any conditions imposed thereunder.

(3) Notwithstanding any other law to the contrary, no garnishee order shall be executed on any amount deposited, wherever this may be, for the purpose of the above security, or any part thereof, unless and before such amount or part thereof is due to be refunded in accordance with the last preceding sub-article.

Declared purpose.
Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX.2000.7.

13. (1) Nothing in article 11(2) shall prevent the Principal Immigration Officer from granting or extending leave to any person under article 6(1)(b) or (c) subject to the condition that such person is not to engage in Malta in any activity other than that falling within the declared purpose.

(2) For the purpose of this article, "declared purpose" means the purpose which any person requesting leave to land and remain in Malta declares to the Principal Immigration Officer and is accepted by the latter to be the purpose of his request:

Provided that the Principal Immigration Officer shall not accept as a declared purpose any activity for the exercise whereof a licence of the Minister is required under article 11(2).

Removal order.
Amended by:
VIII. 1982.2;
XIII. 1983.5;
XXXIII. 1988.2;
VIII. 1990.3;
IX. 2000.7.
Substituted by:
XXIII. 2002.13.

14. (1) If any person is considered by the Principal Immigration Officer to be liable to removal as a prohibited immigrant under any of the provisions of article 5, the said Officer may issue a removal order against such person who shall have a right to appeal against such order in accordance with the provisions of article 25A:

Provided that in relation to any such person as may be prescribed by regulations made under article 4A and who entered Malta or is in Malta, a removal order shall only be issued following an application to that effect by the Principal Immigration Officer to the Board which shall make such order upon being satisfied that such person is liable to expulsion under this Act. The provisions of article 25A shall *mutatis mutandis* apply to any order issued by the said Board under this proviso.

(2) Upon such order being made, such person against whom such order is made, shall be detained in custody until he is removed from Malta:

Provided that if the person in respect of whom an expulsion order has been made is subject to criminal proceedings for a crime punishable with imprisonment or is serving a sentence of imprisonment, the Minister may give such directions as to whether

the whole or part of the sentence is to be served before the expulsion of such person from Malta, and, in default of such directions, such person shall be removed after completion of the sentence.

(3) Nothing in this article shall affect the obligation of any person who does not fulfil or who no longer fulfils the conditions of entry, residence or free movement to leave Malta voluntarily without delay.

(4) Removal of a person shall be to that person's country of origin or to any other State to which he may be permitted entry, in particular under the relevant provisions of any applicable re-admission agreement concluded by Malta and in accordance with international obligations to which Malta may be party.

(5) Nothing in this article shall preclude or prejudice the application of Maltese law on the right to asylum and the rights of refugees and of Malta's international obligations in this regard.

(6) On an application made by the Principal Immigration Officer to the Board, the Board, if satisfied that any expenses have been or will be incurred by the Government in connection with the maintenance, medical treatment or expulsion of a prohibited immigrant or his dependants, may issue an executive warrant against a prohibited immigrant and may also order the forfeiture of such amount of any moneys in his possession as is to be recovered. A warrant issued under this sub-article may be enforced in the same manner as a warrant issued in virtue of an executive title for a civil debt by a Court in the exercise of its civil jurisdiction. The partial recovery of expenses under this subarticle shall not prejudice the liability of any surety for the balance, nor shall the issue or execution of a warrant under this article be a condition precedent to the liability of a surety.

(7) The Minister may make regulations for the purpose of implementing the provisions of this article and in particular for further regulating the manner and procedure for, and the costs of, expulsion.

15. (1) A carrier by sea or air shall be obliged to take all necessary measures to ensure that a person carried by it to Malta is in possession of the travel documents and any visa or other authorisation required for entry into, or transit through, Maltese territory before transporting such person to Malta.

Responsibility of carriers.
Amended by:
VIII. 1990.3.
Substituted by:
XXIII. 2002.13.

(2) At the request of the Principal Immigration Officer the carrier shall return a person refused entry on the grounds of not being in possession of any visa or document mentioned in the preceding subarticle, either to the State from which he was transported, or to the State which issued the travel document on which he travelled, if any, or to any other State to which he is guaranteed entry.

- (3) A carrier may not carry from any State to Malta a person who is not in possession of any travel document, visa or other special authorisation where required under this Act, required for his lawful entry into Malta and in case of such default such carrier shall be liable to pay to the Principal Immigration Officer such penalty as may be established by him, not being more than five thousand liri or such other maximum sum as may be prescribed by the Minister. Such penalty shall be recoverable by the Principal Immigration Officer, after the term within which an appeal to the Board may be entered, has elapsed without an appeal having been entered, or after the decision of such Board as a civil debt due to the Government and the provisions of article 466 of the Code of Organization and Civil Procedure shall, notwithstanding any other provision to the contrary, *mutatis mutandis* apply to such debt.
- Cap. 12.
- Powers of arrest.
Amended by:
XXIII. 2002.14.
- Warrant not a bar to removal order.
Amended by:
XXIV.1995.360.
Cap. 12.
- Recovery of expenses.
- Destination of person in respect of whom a removal order has been made.
Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX.2000.7.
- Master or owner of vessel to remove certain persons.
Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX.2000.7.
- 16.** Any person who acts in contravention of article 5(1), or is reasonably suspected of having so acted, may be taken into custody without warrant by the Principal Immigration Officer or by any Police officer and while he is so kept in custody he shall be deemed to be in legal custody.
- 17.** Notwithstanding any other law to the contrary, no removal order shall be obstructed nor shall the implementation of any such order be delayed by means of any warrant issued under the Code of Organization and Civil Procedure.
- 18.** *Revoked by Act XXIII. 2002.15.*
- 19.** A person against whom a removal order is made or to whom the next following article applies shall be removed from Malta -
- (a) if he is not a member of a crew, to the country of which he is a national or from which he embarked for Malta;
 - (b) if he is a member of a crew, to the country of which he is a national or where he was engaged:
- Provided that the Minister may, at the request of such person, direct that he be removed to another country.
- 20.** (1) Any person to whom this article applies shall be removed from Malta by the master of the vessel in which he arrived or, if directions for the purpose are given by the Minister or by the Principal Immigration Officer, by the owner or agents of that vessel.
- (2) It shall be lawful (notwithstanding any intervening prosecution) for the Principal Immigration Officer or any Police officer to place any person to whom this article applies on board the vessel in which he arrived in Malta or on board any vessel belonging to the same owners for removal from Malta.
 - (3) This article shall apply to -
 - (a) any person to whom leave to land has been refused;
 - (b) any person who, not having been granted leave to land, is found on shore in Malta;

- (c) any member of a crew who, having been granted leave to land or leave to land and remain in Malta under article 6(1)(a), is reasonably suspected of having acted or of being about to act in contravention of this Act:

Provided that this article shall not apply, in so far as it imposes an obligation on the master, owner or agents of the vessel in which a person arrived in Malta, if a period exceeding six months has elapsed since the date of the last landing of such person in Malta from that vessel.

21. The master of any vessel shall detain on board any person arriving in that vessel, whether member of a crew or passenger, to whom leave to land has been refused by the Principal Immigration Officer, while such vessel is in the territorial waters of Malta, and a person so detained shall be deemed to be in legal custody.

Master of vessel to detain on board certain persons.

22. (1) Without prejudice to special provisions which may be made under Part III of this Act, the Minister may, if he deems it to be conducive to the public good, make a deportation order against any person.

Deportation orders.
Amended by:
VIII. 1982.2.
XXXIII. 1988.2.
XXIV.1995.360.
IX. 2000.7.
XXIII. 2002.16.

(2) A deportation order may be made subject to any condition which the Minister may deem proper.

(3) Notwithstanding any other law to the contrary, no deportation order shall be obstructed, nor shall the implementation of such order be delayed, by means of any warrant issued under the Code of Organization and Civil Procedure.

Cap. 12.

(4) A person with respect to whom a deportation order is made shall leave Malta in accordance with the order and shall thereafter so long as the order is in force remain out of Malta.

(5) A person with respect to whom a deportation order is made may be detained in such manner as may be directed by the Minister until he leaves Malta and may be placed on board a vessel about to leave Malta, and shall be deemed to be in legal custody whilst so detained and until the vessel finally leaves Malta.

(6) The master of a vessel with adequate passenger facilities about to call at any port outside Malta shall, if so required by the Minister or by the Principal Immigration Officer, receive a person against whom a deportation order has been made and his dependants, if any, on board the vessel, and afford them against payment a passage to that port and proper accommodation and maintenance during the passage.

(7) The Minister may, if he thinks fit, apply any money or property of a person against whom a deportation order has been made in payment of the whole or any part of the expenses of or incidental to the voyage from Malta and of the maintenance until departure of that person and his dependants (if any).

23. *Revoked by Act XXIII. 2002.17.*

Punishment for infringement of conditions.
Amended by:
XIII. 1983.5.
VIII. 1990.3.

Person who has been removed or deported from Malta to declare such circumstance.
Amended by:
XIII. 1983.5;
VIII. 1990.3;
XXIII. 2002.18.

24. If any person who has left Malta under a removal order or a deportation order at any time seeks leave to land or leave to land and remain in Malta or if he seeks to obtain a residence permit, he shall expressly declare in writing to the Principal Immigration Officer such circumstance and, if he fails to do so, any such leave or any residence permit granted to him shall be null and void and he shall, moreover, by reason only of such omission and without prejudice to the issue of a removal order or a deportation order under this Act, be guilty of an offence and liable, on conviction by the Court of Magistrates, to a fine (*multa*) not exceeding five hundred liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Transitory provisions.
Amended by:
XLIV.1972.3;
VIII.1982.2;
XXXIII. 1988.2;
IX.2000.7.

25. (1) Any leave granted or extended under the Immigration (British Subjects) Ordinance, 1948, or the Aliens Ordinance, 1949*, for the purpose of allowing any person to land or to land and remain in Malta, shall be deemed to have been granted or extended for the unexpired portion of its duration under the provisions of this Act and this Act shall apply to such leave accordingly:

Provided that the conditions attached to such leave, unless modified by the Principal Immigration Officer, shall continue to apply.

(2) Any permit of work or employment granted or extended under one of the laws mentioned in sub-article (1), shall be deemed to have been granted or extended for the unexpired portion of its duration under article 11(3) and this Act shall apply accordingly:

Provided that the conditions attached to such permit, unless modified by the Minister shall continue to apply.

(3) Any person who has been granted under article 36 of The Immigration (British Subjects) Ordinance, 1948,* an exemption which has conferred on him the right to establish his permanent residence or residence for an indefinite period in Malta or who has been granted any corresponding right under any other provision of one of the laws mentioned in sub-article (1), shall be deemed to have been granted a residence permit and this Act shall apply accordingly:

Provided that the conditions attached to the granting of any such exemption or corresponding right, unless modified by the Principal Immigration Officer, shall continue to apply in addition to the implied condition referred to in article 11(1).

(4) Any person, who has been ordinarily resident in Malta continuously for a period of at least fifteen years immediately before the coming into force of this Act and who is not a person falling under sub-article (1) or (3), shall be deemed to have been granted leave to land and remain in Malta under article 6(1)(b) for the period of one year from the coming into force of this Act and, save as provided in the next following sub-article, all the provisions of this Act shall apply accordingly.

*Repealed by article 37 of this Act as originally enacted and which is being omitted under the Statute Law Revision Act, 1980.

(5) Without prejudice to the imposition of any conditions under article 11(3), sub-article (2) of the same article shall not apply, saving the provisions of any other law, to any person referred to in the last preceding sub-article during the said period of one year from the coming into force of this Act.

PART IV

GENERAL

25A. (1) (a) There shall be a board, to be known as the Immigration Appeals Board, hereinafter referred to as the Board consisting of a lawyer who shall preside, a person versed in immigration matters and another person, each of whom shall be appointed by the President acting on the advice of the Minister:

Immigration
Appeals Board.
Added by:
XXIII. 2002.19.
Amended by:
VIII. 2004.9.

Provided that the Minister may by regulations prescribe that the Board shall consist of more than one division each composed of a Chairman and two other members as aforesaid.

(b) The Minister may make regulations to regulate the distribution by types of appeals or applications amongst the divisions of the Board.

(2) A member of the board shall be disqualified from hearing an appeal in such circumstances as would disqualify a judge in terms of Sub-Title II of Title II of Book Third of the Code of Organization and Civil Procedure; and in any such case either the member shall be substituted by another person appointed for the purpose by the President acting on the advice of the Minister, or the appeal, when there is more than one division of the Board in office, may be referred by order of the Board from one division of the Board to another.

Cap. 12.

(3) The members of the Board shall hold office for a period of three years, and shall be eligible for re-appointment.

(4) A member of the Board may be removed from office by the President acting on the advice of the Prime Minister, on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Board.

(5) Any person aggrieved by any decision of the competent authority under any regulations made under Part III, or in virtue of article 7, article 14 or article 15 may enter an appeal against such decision and the Board shall have jurisdiction to hear and determine such appeals.

(6) During the course of any proceedings before it, the Board, may, even on a verbal request, grant provisional release to any person who is arrested or detained and is a party to proceedings before it, under such terms and conditions as it may deem fit, and the provisions of Title IV of Part II of Book Second of the Criminal Code shall, *mutatis mutandis* apply to such request.

Cap. 9.

(7) Any appeal has to be filed in the Registry of the Board

within three working days from the decision subject to appeal.

Cap. 12. (8) The decisions of the Board shall be final except with respect to points of law decided by the Board regarding decisions affecting persons as are mentioned in Part III, from which an appeal shall lie within ten days to the Court of Appeal (Inferior Jurisdiction). The Rule Making Board established under article 29 of the Code of Organization and Civil Procedure may make rules governing any such appeal.

Cap. 420. (9) The Board shall also have jurisdiction to hear and determine applications made by persons in custody in virtue only of a deportation or removal order to be released from custody pending the determination of any application under the Refugees Act or otherwise pending their deportation in accordance with the following subarticles of this article.

(10) The Board shall only grant release from custody under subarticle (9) where in its opinion the continued detention of such person is taking into account all the circumstances of the case, unreasonable as regards duration or because there is no reasonable prospect of deportation within a reasonable time.

(11) The Board shall not grant such release in the following cases:

- Cap. 420. (a) when the identity of the applicant including his nationality has yet to be verified, in particular where the applicant has destroyed his travel or identification documents or used fraudulent documents in order to mislead the authorities;
- (b) when elements on which any claim by applicant under the Refugees Act is based, have to be determined, where the determination thereof cannot be achieved in the absence of detention;
- (c) where the release of the applicant could pose a threat to public security or public order.

Cap. 420. (12) A person who has been released under the provisions of subarticles (9) to (11) may, where the Principal Immigration Officer is satisfied that there exists a reasonable prospect of deportation, and no proceedings under the Refugees Act are pending, be again taken into custody pending his removal from Malta.

(13) It shall be a condition of any release under subarticles (9) to (12) that the person so released shall periodically (and in no case less often than once every week) report to the immigration authorities at such intervals as the Board may determine.

Delegation of powers by Prime Minister and the Minister.
Amended by:
VIII. 1982.2;
XXXIII.1988.2;3;
IX.2000.7.

26. (1) The Prime Minister and the Minister may each authorise in writing a public officer not below the rank of a Head of Department to exercise on his behalf all or any and the powers conferred on him as Prime Minister or Minister, as the case may be, by this Act, excluding in respect of the Prime Minister the powers conferred by article 3(1) and in respect of the Minister responsible for the interior, the powers conferred by the proviso to article 14(2)

and article 36:

Provided that the Prime Minister and the Minister may each, as the case may be, authorise under this sub-article different persons for different purposes.

(2) Any such authorisation and any repeal thereof shall be published by notice in the Gazette and shall have effect from the date of such publication unless a later date is indicated in the same notice.

27. The Principal Immigration Officer shall have power to enter or board any vessel and to detain and examine any person arriving at or leaving any port of Malta whom he reasonably supposes not to be an exempt person and to require the production of any prescribed documents by such person, and shall have such other powers and duties as are conferred upon him by or under this Act or as may be prescribed for giving effect to this Act.

Power of Principal Immigration Officer to board vessel.

28. Every person landing or embarking in Malta shall be in possession of a passport and shall furnish to the Principal Immigration Officer the prescribed information and such other information as the Principal Immigration Officer may deem proper to require.

Production of passport and giving of information.

29. (1) The master of any vessel landing or embarking at any port in Malta passengers coming from or bound for a destination outside Malta shall furnish, to such person and in such manner as may be prescribed, a return giving the prescribed particulars with respect to any passengers and every passenger shall furnish to the master of the vessel any information required by him for the purpose of the return. The same return shall be furnished at the request of such person by the master of any other vessel arriving at any port in Malta from a port outside Malta.

Master to furnish returns.

(2) The master of any vessel arriving at any port in Malta from a port outside Malta shall furnish, to such person and in such manner as may be prescribed, a return giving the prescribed particulars with respect to any members of the crew.

(3) The particulars prescribed for the purpose of sub-article (1) or (2) in relation to the passengers or members of the crew of an aircraft may be different from those prescribed in relation to any other passengers or members of a crew.

30. Any person, not being an exempt person, who lands in Malta pursuant to or under any regulation made under articles 44 and/or 50 of the Prevention of Disease Ordinance shall be deemed to have landed and to be in Malta with the leave of the Principal Immigration Officer for the purpose of the regulation in pursuance whereof or under which he has so landed and such purpose shall be deemed to be the declared purpose referred to in article 13.

Persons in Malta under Prevention of Disease Ordinance. Cap. 36.

Particulars to be furnished by hotel-keepers and others.

Amended by:
VIII. 1982.2;
XIII. 1983.5;
XXXIII. 1988.2;
VIII. 1990.3;
IX. 2000.7;
XXIII. 2002.20.

31. (1) It shall be the duty of the keeper of any premises to which this article applies to keep a register of all persons staying at the premises who are not exempt persons.

(2) The keeper of any premises to which this article applies shall, on the arrival of any person who is not an exempt person, ascertain and enter or cause to be entered in the register kept for the purpose the name and nationality of such person, together with the date of his arrival and the address from which he last came; and on departure of any such person the keeper of the premises shall enter or cause to be entered in the register the date of departure and the destination on departure of that person.

(3) The keeper of any premises to which this article applies shall also, if directions for the purpose are issued by the Minister, make to the Principal Immigration Officer such returns concerning the persons staying at the premises, at such times or intervals and in such form, as may be specified in such directions.

(4) It shall be the duty -

(a) of every person above the age of fourteen years staying at any premises to which this article applies to sign, when so required, a statement as to his nationality, and, if not an exempt person, to furnish and sign a statement of the particulars required under this article;

(b) of the keeper of any premises to which this article applies to require any person above the age of fourteen years who stays at the premises to sign the statement and furnish the particulars required from him under this article and to preserve such statements (including any statements supplied under this article to any previous keeper of the premises) for a period of two years from the date when the statements were signed.

(5) Every register kept, and all particulars furnished, under this article, shall at all reasonable hours be open for inspection by any Police officer or by the Principal Immigration Officer.

(6) The Minister may prescribe the form in which a register is to be kept or statements furnished under this article.

(7) Any person who fails to comply with any of the provisions of this article shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than five hundred liri but not exceeding two thousand liri or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(8) This article applies to any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward.

Other offences.
Amended by:
XIII. 1983.5;
VIII. 1990.3;
XXXIII. 2002.21.

32. (1) Any person who -

(a) aids or assists any person to land or attempt to land in Malta, or to reside in Malta, contrary to the provisions of this Act, or any person to land or attempt to land, or

to reside in, or to leave any other State contrary to the law on entry, residence and exit of that State, or conceals or harbours any person whom he knows, or has reasonable ground for believing, to be in Malta contrary to the provisions of this Act; or

- (b) takes in his employment, or gives work to, any person who is not an exempt person and is not in possession of a licence granted to him for the purpose of such employment or work under the provisions of this Act, or otherwise aids or assists any person who is not an exempt person in the commission of an offence contemplated in article 23; or
- (c) in relation to any information to be given under or for purposes of this Act, makes or causes to be made any false return, false statement or false representation; or
- (d) forges any document or true copy of a document or an entry made in pursuance of this Act; or
- (e) obstructs or impedes any person in the lawful exercise of his powers or duties under this Act; or
- (f) without lawful authority uses or has in his possession any document required for the purposes of this Act which is forged; or
- (g) contravenes any provision of this Act in respect of which an offence is not established under any other article of this Act,

shall be guilty of an offence and shall be liable, on conviction by the Court of Magistrates, to a fine (*multa*) not exceeding five thousand liri or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, unless a greater punishment is established for such offence by another law.

(2) The provisions of the last preceding sub-article shall not apply to a person who conceals or harbours a person who is that person's descendant, ascendant, spouse, brother or sister, for a period not in excess of seven days.

(3) Where the competent authority in Malta is requested by another State to prosecute for an offence under subarticle (1)(a), the competent authority shall first request the competent authority of the State making the request for prosecution to specify, by means of an official denunciation or a certificate, the provisions of law which the latter State considers to have been infringed.

33. In any proceedings under this Act -

- (a) the burden of proof that a person is an exempt person or that a person is not a prohibited immigrant under the provision of article 5(2)(a) shall be upon that person;
- (b) a document purporting to be a removal order or a deportation order shall be presumed, until the contrary is proved, to be the document which it purports to be;
- (c) any order made under this Act shall be presumed, until

Evidence and
burden of proof.

the contrary is proved, to have been validly made and to have been made on the date on which it purports to have been made.

Place of detention.

34. (1) A person detained in custody under this Act, other than under article 10 or 22, but not serving a sentence of imprisonment, may be detained either in prison or in any place appointed for the purpose by the Minister by notice in the Gazette*, but if detained in prison he shall be treated as a person awaiting trial.

(2) The Minister may make regulations for the management, control and discipline of any place appointed by him under sub-article (1) for the detention of persons, for the diet of the persons detained therein, and for the punishment of persons detained therein for any offence committed by them against such regulations:

Cap. 9.

Provided that such punishment may not exceed the punishment established in the Criminal Code for contraventions.

Prohibition of entry to persons without accommodation in Malta.

Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX. 2000.7;
XXIII. 2002.22.

35. (1) Notwithstanding anything in this Act or in any other law contained, but subject to any provisions made under Part III of this Act, the Minister may also prohibit the entry into Malta of any person who, in the opinion of the Minister, is not provided with suitable accommodation in the island.

(2) The last preceding sub-article shall not apply -

(a) to any person who is a citizen of Malta by virtue of article 22(1) or of article 25(1) of the Constitution of Malta or who is deemed to be such a citizen under article 44(4) of the said Constitution; and

(b) to any other citizen of Malta who -

(i) has emigrated from Malta;

(ii) was resident in Malta and has during the two years immediately before emigrating been so resident for a continuous period of one year or for periods amounting in the aggregate to one year; and

(iii) returns to Malta within two years after his departure therefrom.

Regulations.

Amended by:
VIII. 1982.2;
XXXIII. 1988.2;
IX. 2000.7.
Substituted by:
XXIII. 2002.23.

36. (1) Without prejudice to any provision of this Act vesting the power to make regulations in the Minister, the Minister may make regulations for prescribing anything which is by this Act to be prescribed and generally for carrying the purposes or provisions of this Act into effect.

(2) In particular, the Minister may make regulations to regulate:

(a) any border checks which may be ordered, their scope, nature and frequency, the classification of different borders, the designation of official points of entry in, and exit from, Malta, and the hours when such entry or

*See Legal Notices 20 of 1994 and 193 of 1996.

exit may take place;

- (b) the position of the holders of diplomatic, service and other official passports as well as of other categories of persons in all matters which are the subject of this Act.
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