



# ICLG

The International Comparative Legal Guide to:

## Corporate Immigration 2019

**6th Edition**

A practical cross-border insight into corporate immigration law

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# Malta

Wayne Pisani



Paul Caruana Turner



Grant Thornton Malta

## 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 Maltese Citizenship Act – Cap 188.
4. The Refugees Act – Cap 420.
5. The European Union Act – Cap 460.
6. Continuation of Companies Regulations – S.L. 386.05.
7. EU Regulations and Directives.

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

The Identity Malta Agency, acting through the Central Visa Unit and the Department of Citizenship and Expatriate Affairs, deal with the immigration of natural persons into the country. Employment licences are then handled by the Jobsplus Corporation, whilst posted workers and other employment-related issues are dealt with by the Department for Industrial & Employment Relations (“DIER”). The re-domiciliation of companies falls within the remit of the Registry of Companies Agency.

### 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?

As a member of the European Union (“EU”) Malta is subject to the provisions of the Treaty on the Function of the EU (“TFEU”). Furthermore, as an EU Member State (“MS”), Malta gives effect to the rights of EU citizens as established under Directive 2004/28 (the Citizenship Directive), as well as the decisions of the European Court of Justice (“ECJ”).

In accordance with Article 45 of the TFEU, every EU citizen has the right to live and work in another MS. This right ensures that EU citizens are not discriminated against when working in a MS other than their home state.

As a result of the Raymond Van der Elst ruling, an employee being posted to Malta from an EU/EEA country is not required to apply for

a working 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 apply for a working licence in Malta, provided that such a posted worker already holds a working licence issued in the country where the posting undertaking is established. Although no employment licence is necessary, the firm in Malta to which the employee will be posted must notify the DIER.

In the case of a foreign national who is posted in Malta by an undertaking which is not established in an EU/EEA country, a working licence is required.

Under the EEA agreement, all these rights are also broadly extended to citizens of Iceland, Norway, Switzerland and Liechtenstein.

Employment Licences are not issued in the case of foreign nationals who are non-resident and non-executive directors.

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; Norway; Switzerland; and Liechtenstein.

Visa facilitation agreements allow for both EU and non-EU citizens to benefit from facilitated procedures in the issuance of visas. A number of these agreements have been signed between the EU and certain third countries and therefore automatically apply to Malta. These agreements have been signed with Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Cape Verde, FYROM, Georgia, Moldova, Montenegro, Serbia, Russia and Ukraine. These agreements focus on facilitating procedures for the obtainment of visas, reducing visa fees, the 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?

As a general rule, TCNs travelling to Malta for business purposes still require a visa to enter Malta.

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 II of Regulation (EU) 2018/1806 lists a number of countries the nationals of which do not require a visa to enter Malta for stays of no more than 90 days in any 180-day period.

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

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

## 2.3 What activities are business visitors able to undertake?

Business visitors visiting Malta using a visa are free to undertake all activities for which the visa was issued. The following activities can be carried out whilst visiting Malta on a business visa:

1. Conference Attendance.
2. Business Meetings.
3. Market research or studies.

Persons making use of a visa waiver programme or those in possession of a Schengen visa are not permitted 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?

Posted workers do not need an employment licence. Posted workers refers to those workers who are usually based in another EEA country or Switzerland and have had an employment relationship with an employer established in that country but who are being posted to Malta for a stipulated period. Whilst no employment licence is necessary the DIER must be notified within 24 hours of commencement of work by the firm in Malta to which the Employee will be posted.

In the case of TCNs being posted to Malta they must hold an employment licence issued in the country where the posting undertaking is established. If a TCN worker already holds a Schengen residence permit he can enter Malta without a visa, otherwise the worker must apply for the relevant visa.

Employment licences are not issued in respect of workers who will not normally or habitually carry out work in Malta; therefore employers seeking to employ a worker to carry out work primarily in another country need not apply for an employment licence in Malta.

## 2.5 Can business visitors receive short-term training?

Yes, provided that their stay in Malta is legal. It is advisable to disclose this in the visa application.

## 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?

Jobsplus is established by virtue of the Employment and Training Services Act, Chapter 343 of the Laws of Malta (“ETSA”). The ETSA empowers Jobsplus 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. This power is not limited to employers who regularly employ foreign nationals, and is enforceable upon any premises or place where, in the opinion of the inspector, the provisions of the ETSA apply.

In 2017 the government enacted the Coordination of Government Inspections Act, Chapter 568 of the Laws of Malta. The aim of this Act is to establish a central office to coordinate inspections by government bodies and to regulate the conduct of inspections with a view to reducing the burden on private businesses, other private entities and individuals, and making inspections more transparent and effective. Jobsplus is one of the bodies included in the schedule to the Act.

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

The employer is obliged to make sure that TCNs employed with him all have a valid employment licence in place and that this is renewed as required.

Regardless of whether employees are TCNs or EU/EEA/Swiss, all employees are subject to the general provisions affording protection against exploitation including laws on health and safety, maternity leave, minimum leave and special leave, minimum working age, etc.

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

In accordance with the Manpower Records (Commencement or Termination of Employment) Regulation, an employer found guilty of employing a TCN without an employment licence shall be liable to a fine of not less than €1,164.69 and not more than €2,329.73 and the Court shall, at the request of the prosecution and 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 such person is employed.

Such instances would also constitute a violation of the provisions of the Immigration Act, Chapter 217 of the Laws of Malta, and the employer would be subject to prosecution and penalties while the foreign national concerned may be extradited from Malta.

Employers found guilty by the Courts of Law of illegally employing TCNs may also be liable for:

- i. any outstanding compensation due to the illegally employed TCN. The agreed compensation shall be presumed to have been at least equivalent to the national minimum wage, unless either the employer or the employee can prove otherwise;
- ii. an amount equal to any taxes and social security contributions that the employer would have paid had the TCN been legally employed, including penalty payments for delays and relevant administrative fines;
- iii. where appropriate, any cost arising from sending back payments to the country to which the TCN has returned or has been returned; and
- iv. the costs of returning the illegally employed TCNs to their country of origin, in those cases where return procedures are carried out.

Employers found guilty by the Courts of Law of illegally employing TCNs will be barred from applying for any new or renewed licence for a period of 12 months.

## 4 Corporate Immigration – General

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

Prior to hiring any employees of any nationality or origin an employer 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 contributions 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 to be paid by him to his employees fall 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 as required (normally on an annual basis).

An employment licence is issued in respect of a TCN working with a specific employer to perform a specific job. An employer cannot use an employment licence issued in respect of one TCN employee, for another employee, even if the latter is performing the same work as previously done by the former. Similarly, a TCN cannot use the licence to take up a different job with a different employer, or change his working conditions.

An employment licence between an employer and a TCN is deemed to constitute a commitment between both parties. The employer is also obliged to inform the authorities of any changes in the status or personal details of any employee, apart from ensuring that they remain in compliance with payments due, including National Insurance and tax through the Final Settlement System (FSS).

### 4.3 Are employers who hire foreign nationals required to show a commitment to train or up-skill local workers?

When submitting a work permit application for a TCN, unless the application is made in terms of KEI (as described herein), the employer is to provide proof of efforts made to recruit Maltese or EU/EEA nationals. The application must also provide details on how staff will be trained to meet requirements in certain circumstances.

### 4.4 Are employers who hire foreign nationals required to pay government charges and fees which contribute towards the training or up-skilling of local workers?

There are no fees levied on employers who hire foreign nationals to contribute to the training or up-skilling of local workers. However, the government provides a number of tax incentives to cover up to 70% of the costs of certain approved training courses.

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

JobsPlus has 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 collaborates with the Department of Industrial and Employment Relations, the Department of Social Security, Benefit Fraud, and the VAT Department, as well as the Police Force in order to ensure better law enforcement.

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. Jobsplus Inspectors conduct their inspections by following up anonymous hotline reports received either from calls or through the Jobsplus website's Law Compliance link, or during routine inspections conducted either by business sector or by area.

### 4.6 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 such occupations. However, certain occupations, such as C-level and management level employees, within certain sectors are able to benefit from favourable income tax rates on the income from such occupation. These incentives aim to attract talent and high calibre individuals to Malta. Please refer to question 5.1.

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

The authorities do maintain a list known as the Vacancy Exemption List which exempts employers recruiting for the occupations prescribed therein from having to open vacancies locally before submitting an application for a TCN. This list is updated from time to time according to exigencies of the local labour market.

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

Currently, there are no annual quotas or known plans to introduce such quotas.

### 4.9 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. Every application submitted by an employer in respect of an employee is evaluated on its individual merit.

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

TCNs 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.

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

In the case of TCNs coming from countries with a high occurrence of tuberculosis, employees are required to undergo medical examinations. An email must be sent by the employer to the Health Promotion and Disease Prevention Directorate for the appropriate form stating the job and nationality of the employee requesting a work permit. Details on the form should include necessary information on the documents and medical tests required. Employees cannot apply themselves.

The whole process from initial email up until approval can take 10 to 20 working days.

#### 4.12 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?

TCNs are required to have in place a comprehensive health-insurance policy, showing all aspects being covered, which supports the applicant in the eventuality of requiring any type of medical assistance or hospitalisation during the whole period of stay in Malta. It is not obligatory that this is paid for by the employer.

EU citizens employed in Malta are not required to have such insurance in place.

#### 4.13 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?

In the case of applications for highly qualified employment, applications will generally be considered favourably, albeit in line with the labour market situation. Malta has introduced the Key Employee Initiative. This scheme is applicable to Managerial or highly technical posts which require the relevant qualifications or adequate experience related to the job being offered and is also extended to innovators involved in start-up projects which are specifically endorsed by the Malta Enterprise.

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 TCN for these occupations, the authorities will consider the application favourably. The Highly Qualified Persons Rules currently apply to the following industries: Financial Services; Gaming; and Aviation. There is the possibility that such incentives are extended to the Blockchain, AI and Cannabis sectors in the near future.

There are also tax incentives for R&D projects which can benefit from favourable tax rates.

## 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, or setting up a subsidiary or corporate presence in, your jurisdiction?

In respect of TCNs who wish to apply to be self-employed in Malta, an employment licence is required and is only granted in exceptional cases. In order to qualify for self-employed status, a TCN must meet one or more of the following criteria:

- i. Invest in Malta capital expenditure of €500,000, within six months from the date on which the Jobsplus licence is issued. Capital expenditure shall solely consist of fixed assets used for business purposes (rental contracts do not qualify).
- ii. Highly skilled innovators with a sound business plan (to be submitted with the application) who commit to recruiting at least three EEA/Swiss/Maltese nationals within 18 months of establishment.
- iii. A person leading a project that has been formally approved by Malta Enterprise and formally notified by the latter to Jobsplus.

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

Long-term residents, Asylum Seekers, persons enjoying Subsidiary Protection/Temporary Humanitarian Protection Status and Refugee Status require an employment licence to work as self-employed in Malta. However, they are exempt from meeting the above criteria.

Where a 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 €500,000 which may not be redeemed, reduced or transferred to a third party during the first two years following the issuing of the employment licence (this share capital must be through a cash/stock injection in Malta);
- the company must have made a capital expenditure of at least €500,000 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. Furthermore, such expenditure needs to be supported by receipts in the company's name; or
- the company is leading a project that has been formally approved by Malta Enterprise and formally notified by the latter to Jobsplus.

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.

Executive Directors – in cases where a director is not a shareholder, the application does not need to meet the above criteria, and it will be processed from a labour market consideration.

## 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 Jobsplus, and therefore there is no specific immigration category catering for these classes. However, citizens of Australia and New Zealand citizens (18–30 years old) can apply for a working holiday multiple entry visa, valid for a period of one year from date of issue, under reciprocal arrangements agreed upon by the government of Malta and that of Australia and New Zealand.

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

Employment licences are only issued in respect of workers who will normally or habitually be carrying out work in Malta.

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

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

- 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 S.L. 452.82 – 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 at least 50% 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 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 Jobsplus.

### 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 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/her 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 monitoring purposes by the DIER inspectors.

### 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 Is there a maximum period of validity for initial intra company transfer visas, can they be extended and is there a maximum period of stay in this category?

Directive (2014/66EU) crystallises the conditions of entry and residence for third country nationals moving to the EU under an intra-company transfer. Where the intra corporate transfer is for a duration of more than 90 days the Directive does not permit member states to have their own national intra-company transfer work permit scheme.

The Conditions of Entry and Residence of Third-Country Nationals in the Framework of an Intra-Corporate Transfer Regulations (“Regulations”) transpose EU Directive 2014/66/EU into Maltese law.

The scope of these Regulations is to determine the conditions of entry and residence:

- for more than 90 days in Malta, for third country nationals and their family members; and
- when Malta is not the Member State which first grants the third country national an intra-corporate transferee permit.

The maximum duration of the intra-corporate transfer shall be three years for managers and specialists and one year for trainee employees after which they shall leave Malta unless they obtain a residence permit on another basis.

### 8.8 Can employees coming under the intra-company route transfer to a permanent stay visa route and apply for permanent residence?

Yes, subject to the conditions explained in question 8.7, they can apply for long-term residence once they satisfy the criteria.

### 8.9 What are the main government fees associated with this type of visa?

There are no government fees associated with this type of visa.

## 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. The single permit is a process which leads to receipt of an e-residence card, which serves as both an employment licence and residence permit.

Certain categories of employees (posted workers, intercorporate transferees, workers with special humanitarian status and others) 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, when the occupation is not one listed on the Malta Vacancy Exemption List Jobsplus will assess the labour market situation when considering the employment licence application or the single permit application.

Employers are required to provide evidence of their efforts to search for Maltese/Swiss/EEA candidates.

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

Yes, please see the answer to question 4.7.

### 9.4 What is the process for employers 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 in possession of the necessary permits to reside therein.

Employers who wish to submit applications of Third-Country Nationals who are still abroad are able to submit a total of 15 applications on a Friday. A total of three Still Abroad applications can also be submitted on a daily basis between Monday to Thursday; however, employers cannot exceed a total of 25 in the same week.

### 9.5 What is the process for the employee to obtain a visa as a new hire?

In the case of a TCN residing in Malta, 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 within Identity Malta for such purpose.

Where a TCN is residing outside of Malta 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. Applicants whose application is approved are required to proceed to the Department for Citizenship and Expatriate Affairs, following his/her arrival in Malta, in order for the relevant biometric data to be captured. The applicant would then be issued with the residence permit in question. Applicants wishing to be admitted to Malta for work are required to submit a Form CEA-C.

Employees may only visit the Department of Citizenship and Expatriate Affairs to file an application between Mondays and Thursdays. It is important to note that applications for a single permit have to be endorsed by the employer concerned.

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

An application in terms of the Key Employee Initiative is processed within one week of completing the application.

In case of other applications, the Maltese authorities are required to 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 **complete** application was lodged. They are normally issued within four to eight weeks.

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 maximum period of 90 days. Upon arrival in Malta, the employee is obliged to apply for a residence permit on the basis of employment. Permits are issued for one year and can be renewed annually.

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

Upon application to renew an employment licence, 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. This is subject to other conditions which shall be satisfied by the applicant.

### 9.10 What are the main government fees associated with this type of visa?

Application fees range from €58 to €280.50. Some ancillary fees, such as duty on documents tax for the purchase of insurance, apply in the case of TCNs.

## 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.

Jobsplus is to be notified immediately of any change of address. A new employment licence will be issued free of charge against submission of the old licence. A licence holder may not undertake any other work than that for which the licence was issued or work for a different employer to that indicated on the employment licence.

### 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. They will of course be required to register with the authorities to obtain an income tax number, social security number, etc.

## 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 (other than degrees of relationship or equivalent); 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 13<sup>th</sup> month after reunification, family members of LTRs are entitled (in the same way as the LTR him/herself) 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, provided that the relationship has endured for at least two years.

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

They would need to apply for an employment licence in their own right.

### 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 granting of such status:

1. Five years of continuous legal residence. However, there are exceptions to this since temporary absence is allowable for as long as periods of absence are:
  - shorter than six consecutive months; and
  - do not exceed a total of 10 months in a five-year period.
 A longer period of absence may be considered for:
  - health reasons;
  - secondment by the employer of the third country national;
  - business travel; or
  - educational or training purposes.

Within this context, the applicant is required to present a list in chronological order of the dates of his/her arrivals in, and departures from Malta during the said period of five years. The list should be drawn up by eliciting the relative information from the endorsements (date-stamps) contained in the passport/s for the period in question.

2. Be in receipt of stable and regular resources which are (were) sufficient to maintain himself/herself and the members of his/her family, which resources should be at least equivalent to the minimum wage in Malta with an addition of another 20% income or resources for each member of the family.
3. Accommodation, regarded as normal for a comparable family in Malta and which meets the general health and safety standards in force in Malta.
4. Sickness insurance in respect of all risks normally covered for Maltese nationals for himself/herself and the members of his/her family.
5. Compliance with the following integration conditions:
  - Twelve months prior to the application s/he has attended a course organised by the National Commission for Further and Higher Education (NCFHE) about the social, economic, cultural and demographic history and environment of Malta. S/he must provide evidence that s/he has attended lessons for at least 100 hours and must achieve an examination pass mark of at least 75%.
  - Obtain a pass mark of at least 75% after being assessed for the equivalent of Malta Qualifications Framework Level 2 in English.
  - Provide evidence that the fees charged for the above-mentioned courses, examinations and certificates have been paid.
6. A letter giving their history since they first arrived in Malta. This letter should include information on the grounds on which they came to and remained in Malta, their employment history since then, the current and previous premises occupied by them, family members, if they are living with them in Malta, and any other information which could be useful in the consideration of their request for long-term resident status.

A long-term resident permit is valid for five years and shall be automatically renewable upon application.

### 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 process 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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Wayne is the Grant Thornton partner responsible for the corporate and financial services team in Malta where he deals with a wide range of asset protection and cross-border regulatory and tax planning engagements for clients ranging from private clients, including family offices and high-net-worth individuals, to NASDAQ listed companies in various industry sectors. He conducts an active consulting practice on the legal and tax implications involved in the structuring of both local and international financial institutions, M&A and project finance transactions.

Wayne is the President of the Malta Institute of Financial Services Practitioners and a member of the board of governors of FinanceMalta. He is also a member of the International Fiscal Association, the International Bar Association and the Maltese Chamber of Advocates.

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Paul has been working in the financial services field for several years, having previously worked in the Commercial Law department at a boutique law firm, in the Trusts Department of a top-tier law firm and a Corporate Services Provider before joining Grant Thornton in 2016.

Paul is an Assistant Manager within the legal & fintech team at Grant Thornton servicing a varied portfolio of Maltese and overseas clients.

Paul focuses predominantly on the private clients, corporate services, trusts, compliance, capital markets, virtual financial assets framework, regulatory and licensing fields. He provides legal support for corporate structuring, in the drafting of public offering documentation, in engagements for legal and regulatory due diligence on regulated entities, advising on regulatory compliance, drafting of licence applications in the financial services and gaming sector, providing support of a legal and regulatory nature to licenced companies, and works alongside the tax and advisory teams providing legal input for projects and business plans.

He also supervises the immigration team advising clients on the various citizenship and residence programmes operated by the Maltese government, helping guide them through the entire application process.

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Grant Thornton Malta is an accredited agent under both the MIIP and MRVP programmes, authorised by the Government of Malta to prepare and submit applications for prospective applicants looking to obtain Maltese citizenship or apply for residence in Malta according to the provisions of Maltese law.

Our residency and immigration services are targeted towards both individuals and businesses with interests in Malta. The firm has created a comprehensive package of services that provides the applicant and their family members with a holistic approach when it comes to satisfying their investments and residency requirements – be it the procurement of citizenship or any of the other attractive residence programmes available. Our experienced professionals are fully abreast with all that the application process entails so that they can provide unparalleled service to individuals and companies seeking an alternative residence in Malta, at reasonable prices.

With over 40 years industry experience, we focus on providing a full range of services including assurance, tax, advisory, specialist financial services and capital markets support (including digital and crypto assets), corporate, trustee and outsourcing services to clients ranging from public companies, multi-nationals, and government agencies to entrepreneurial businesses across a broad spectrum of industries.

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