



FREE MOVEMENT OF EUROPEAN UNION NATIONALS AND THEIR FAMILY MEMBERS

The Citizens Rights Directive (2004/38/EC) aims to facilitate Union citizens' right to move and reside freely within the European Union Member States (MS). The Directive is incorporated into Maltese Law via an Order titled the 'Free Movement of European Union Nationals and their Family Members Order'.

The **fundamental right of residence in another MS** is conferred directly on Union citizens by the Treaty establishing the EU and is **not dependent upon their fulfilment of administrative procedures**. However, for periods of residence over three months, Citizens should apply for a **residence card** with Identity Malta.

For periods of stay over three months, the Order enables three categories of Union Citizens to legally reside in Malta:

- Workers
- Students
- Those with "*sufficient resources*"

Such persons shall receive a residence card valid for a period of **5 years or less** depending on the envisioned period of stay upon application to Identify Malta.

Family members of the Union citizen who have moved to Malta and fall into one of the above categories may also accompany them and enjoy many of the same rights. This is **irrespective of whether the family members are EU or Non-EU nationals**. Categories of family members and other beneficiaries recognised by the Order include:

- The spouse
- Direct descendants under the age of 21
- Relatives in the ascending line who are dependent on the Union citizens and/or spouse
- Persons who are dependent on a member of the household of the Union citizen
- Persons who require personal care by the Union citizen as a result of serious health reasons
- Partners in a duly attested "*durable relationship*"

EU citizens and their family members residing in Malta under the Order are entitled to **seek and take up employment or self-employment**, and **enjoy equal treatment** with Maltese nationals.

FAMILY MEMBERS



WORKERS

EU citizens who take up employment (including part-time work and self-employment) in Malta are able to benefit from the rights afforded by the Order. EU citizens will also fall under the 'worker' category if they become involuntarily unemployed (in line with certain conditions) or if they embark on a vocational course relating to their field of employment, unless unemployment is involuntary.

To be provided with a residence card, workers must provide a valid passport or ID and confirmation/proof of their employment.

Family members of the worker, irrespective of nationality, will be subject to many of the same rights and conditions as the Union worker including the right to work. To be entitled with a residence card, family members must provide a valid ID (EEA) or passport (TCN) and proof of their relationship to the worker issued by the competent authority from the country or origin.

- ➔ EU citizens and their family members who move to Malta and **take up employment** will additionally fall within the scope of Regulation 492/2011 on freedom of movement for workers within the Union. Recipients of the regulation are entitled to additional rights and benefits, such as social and tax advantages, eligibility for housing, and access to education for children.

STUDENTS

EU national students following a course of education including vocational training may rely upon the Order to reside in Malta, in addition to their accompanying family members. Students must attain certain criteria:

- Enrolment in a recognised educational establishment
- Assurance via a declaration or equivalent means that the student has sufficient resources for themselves and any accompanying family members for the envisioned duration of stay in Malta
- Comprehensive sickness insurance valid in Malta for the student and any accompanying family members
- Valid ID document

Entitlement to a residence card shall be met with proof of fulfilment of these criteria.

Students may enjoy the same tuition fee's as Maltese nationals, but will **not** be entitled to social assistance, including maintenance aid, student grants or student loans, unless they have acquired permanent residence or have taken up employment.

Family members must provide a valid ID (EEA) or passport (TCN) and proof of their relationship to the worker issued by the competent authority from the country or origin.



**THOSE WITH
'SUFFICIENT
RESOURCES'**

Union Citizen's with sufficient resources for themselves and their accompanying family members may also reside in Malta under the Order. Entitlement to a residence card will follow providing evidence of:

- Proof of sufficient resources for the Union citizen and accompanying family members
- Comprehensive sickness insurance valid in Malta for the Union citizen and accompanying family members
- Valid ID document

Family members must provide a valid ID (EEA) or passport (TCN) and proof of their relationship to the worker issued by the competent authority from the country or origin.

Reference to sufficient resources in the above two categories refers to **having enough resource so as not to become an "unreasonable burden"** on Malta's social assistance system.

Whilst no fixed amount may be set to determine what constitutes sufficient resources, it nonetheless refers to at least means equivalent to the **minimum means** which determine the grant of social assistance to Maltese nationals, or to the minimum social security pension payable by the Maltese government at time of application.

Persons other than those falling under the worker category may not be entitled to social assistance. In the event they do rely on social assistance, they will no longer fulfil the criteria of sufficient resources, and therefore compromise the legality of their stay.

Such persons may be removed from Malta if they become an *"unreasonable burden"* on social assistance. However, **an expulsion measure will not be the automatic consequence of requiring on social assistance and numerous safeguards ought to be in place against removal.**



**PERMANENT
RESIDENCE**

Union Citizens and accompanying family members who have resided legally for a continual period of **5 years** may apply for permanent residence. Once a permanent resident, individuals are not subject to any of the above conditions. They must however prove that they satisfied such conditions for the duration of the 5 years.

Proof of continuous residence is not affected by:

- Temporary absences up to six months per year
- Longer absence if due to compulsory military service
- One absence of maximum 12 months if due to important reason such as pregnancy, childbirth, serious illness or studying abroad in another member state or third country.

Once acquired, permanent residency may only be lost after an absence from Malta of 2 consecutive years.

Certain categories of persons can attain permanent residence before 5 years:

- Workers or self-employed persons who have reached retirement age, or those retiring early provided they lived there for at least 3 years and worked for 12 consecutive months prior.
- Workers whom after at least 2 years have been deemed permanently incapacitated
- Frontier workers after 3 years, under certain conditions

ID Malta should provide Union citizens and their family members with a permanent residence card as soon as possible upon application. TCN family members should receive the card within 6 months.

The permanent residence card is automatically renewable every 10 years.

Registration certificates, residence cards, permanent registration certificates and permanent residence cards are to be **issued free of charge**.