

SUBSIDIARY LEGISLATION 217.20

**CONDITIONS OF ENTRY AND STAY OF THIRD
COUNTRY NATIONAL FOR THE PURPOSE OF
EMPLOYMENT AS SEASONAL WORKERS
REGULATIONS**

17th January, 2017

LEGAL NOTICE 21 of 2017.

PART I
General Provisions

1. (1) The title of these regulations is the Conditions of Entry and Stay of Third Country Nationals for the purpose of Employment as Seasonal Workers Regulations. Citation and scope.

(2) These regulations transpose Council Directive 2014/36/EU of the 26th February 2014 on the conditions of entry and residence of third country nationals for the purpose of employment as seasonal workers.

(3) The aim of these regulations is to determine the conditions of entry and stay of third country nationals for the purpose of employment as seasonal workers and defines the rights of such workers:

Provided that for stays not exceeding ninety days, these regulations shall apply without prejudice to the Schengen acquis.

2. For the purpose of these regulations: Interpretation.
"Act" means of the Immigration Act; Cap. 217.

"activity dependant on the passing of seasons" means an activity that is tied to a certain time of the year by a recurring event or pattern of events linked to seasonal conditions during which required labour levels are significantly above those necessary for usually ongoing operations;

"authorisation for the purpose of seasonal work" means any authorisations referred to in regulation 11 entitling their holder to stay and work in Malta;

"Board" means the Immigration Appeals Board constituted by article 25A of the Act;

"Executive Chairperson" means the Executive Chairperson of Identity Malta Agency, established under the Identity Malta Agency (Establishment) Order, or any senior official thereof so delegated; S.L. 497.07

"Long-stay visa" means an authorisation issued by the pertinent Maltese authorities as provided for in Article 18 of the Schengen Implementing Convention;

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"seasonal worker" means a third country national who retains his or her principal place of residence in a third country and stays legally and temporarily in Malta to carry out an activity dependent on the passing of seasons, under one or more fixed term work contracts concluded directly between that third country national and the employer established in Malta;

Provided such activity is one which shall be exclusively carried out in one of the following sectors: hospitality, agriculture and marine aquaculture;

"seasonal worker permit" means an authorisation issued using the format laid down in Council Regulation (EC) No 1030/2002 bearing a reference to seasonal work and entitling its holder to stay and work in Malta for a stay exceeding ninety days under the terms of these regulations;

"short-stay visa" means an authorisation issued as provided for in point (2)(a) of Article 2 of Regulation EC No 810/2009 (Visa Code);

"single application procedure" means a procedure leading, on the basis of one application for the authorisation of a third-country national's stay and work in Malta, to a decision on the application for a seasonal worker permit;

"third-country national" means any person who is not a citizen of the European Union, hereinafter referred to as "the Union", within the meaning of Article 20(1) TFEU;

"Visa Code" means Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas;

"work permit" means an employment licence issued under article 11(3) of the Act.

Applicability of
these regulations.

3. (1) These regulations shall apply to third-country nationals who reside outside the territory of Malta and who apply to be admitted, or who have been admitted in Malta under these regulations for the purpose of employment as seasonal workers.

(2) These regulations shall not apply to third-country nationals who:

- (a) at the time of application reside in Malta with the exception of cases referred to in regulation 14;
- (b) are carrying out activities on behalf of undertakings established in Malta or in another Member State in the framework of the provision of services within the meaning of Article 56 TFEU, including third-country nationals posted by undertakings established in the provision of services in accordance with the Posting of Workers in Malta Regulations;

S.L. 452.82

- (c) are family members of Union citizens who have exercised their right to free movement within the Union, in conformity with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC and the Free Movement of European Union Nationals and their Family Members Order; S.L. 460.17
- (d) together with their family members, and irrespective of their nationality, enjoy rights of free movement equivalent to those of Union citizens under agreements either between the Union and the Member States or between the Union and third countries.

PART II
Conditions of Admission

4. (1) Applications for admission to Malta in accordance with the provisions of these regulations shall be submitted to the authorities responsible for the issue of work permits by the third country national and endorsed by the employer established in Malta. Criteria and requirements for admission for employment as a seasonal worker for stays not exceeding ninety days.
- (2) Applications shall be accompanied by:
- (a) a valid contract of employment, or a binding job offer to work as a seasonal worker in Malta with an employer which specify:
 - (i) the place and type of work;
 - (ii) the duration of employment;
 - (iii) the remuneration;
 - (iv) the working hours per week or month;
 - (v) the amount of any paid leave;
 - (vi) where applicable other relevant working conditions; and
 - (vii) if possible, the date of commencement of employment;
 - (b) evidence of having, or of having applied for, sickness insurance for all the risks normally covered for Maltese nationals for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work carried out in Malta;
 - (c) evidence that the seasonal worker will have adequate accommodation or that adequate accommodation will be provided in accordance with regulation 18.

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Cap. 452. S.L. 452.95	<p>(3) The conditions referred to in sub-regulation (1)(a) shall comply with the Employment and Industrial Relations Act, the Equal Treatment in Employment Regulations, collective agreements and, or practice.</p> <p>(4) On the basis of the documentation provided pursuant to sub-regulation (1), the authorities shall require that the seasonal worker shall have sufficient resources to maintain himself and will have no recourse to the social assistance systems.</p> <p>(5) In cases where the contract of employment or binding job offer specifies that the third-country national will exercise a regulated profession, as defined in the Recognition of Professional Qualifications Regulations, the applicant may be required to present documentation attesting that he fulfils the conditions for the exercise of that regulated profession.</p>
S.L. 451.03	
Criteria for admission for stays exceeding ninety days	<p>5. (1) The provisions of sub-regulations (2) to (5) of regulation 4 shall apply <i>mutatis mutandis</i> to seasonal workers whose stay in Malta exceeds ninety days.</p> <p>(2) Applications for admission to Malta in accordance with this regulation shall be submitted to the Executive Chairperson as specified in regulation 12.</p> <p>(3) The Executive Chairperson, in consultation with the Principal Immigration Officer, shall verify that the third country national does not present a risk of illegal immigration and that he intends to leave the territory of Malta at the latest on the date of expiry of the authorisation.</p> <p>(4) The third country national shall be in possession of a valid travel document. The period of validity of the travel document shall cover at least the period of validity of the authorisation for the purpose of seasonal work:</p> <p style="padding-left: 40px;">Provided that the Executive Chairperson may require:</p> <p style="padding-left: 40px;">(a) the period of validity to exceed the intended duration of stay by a maximum of three months;</p> <p style="padding-left: 40px;">(b) the travel document to have been issued within the last ten years; and</p> <p style="padding-left: 40px;">(c) the travel document to contain at least two blank pages.</p> <p>(5) Third country nationals who are considered to pose a threat to public policy, public security or public health shall not be admitted.</p>
Volumes of admission.	<p>6. An application by a third country national for the purpose of seasonal work shall be considered inadmissible or rejected on the basis of labour market considerations by the authorities responsible for the issue of work permits in the case of stays for less than ninety days and by the Executive Chairperson, in consultation with the pertinent authorities responsible for employment matters, in the case of stays exceeding ninety days.</p>

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7. (1) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall reject an application for authorisation for the purpose of seasonal work where:

Grounds for rejection.

- (a) the provisions of regulations 4 or 5 are not complied with; or
- (b) the documents presented for the purpose of regulations 4 or 5 were fraudulently acquired, or falsified, or tampered with.

(2) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall, if appropriate, reject an application for authorisation for the purpose of seasonal work where:

- (a) the employer has been sanctioned for undeclared work and, or illegal employment;
- (b) the employer's business is being or has been wound up in accordance with the relevant provisions of the Companies Act and the Commercial Code or no economic activity is taking place;
- (c) the employer has been sanctioned under regulation 16.

Cap. 386.
Cap. 13.

- (3) (a) Before taking a decision on an application for the purpose of seasonal work, the Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall consult the pertinent authorities responsible for employment matters in order to verify whether the vacancy concerned may be filled by:

- (i) Maltese nationals; or
- (ii) citizens of other Member States of the Union; or
- (iii) third country nationals lawfully resident in Malta.

- (b) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall refuse the said application if the vacancy could be so filled.

(4) The provisions of sub-regulation (3) shall apply without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the relevant Acts of Accession.

(5) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, may reject an application for authorisation for the purpose of seasonal work where:

- (a) the employer has failed to meet legal obligations regarding social security, taxation, labour rights, working conditions or terms of employment as provided for in applicable law and, or collective agreements; or

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- (b) within twelve months immediately preceding the date of the application, the employer has abolished a full-time position in order to create the vacancy that the employer is trying to fill by the use of these regulations; or
- (c) the third country national has not complied with the obligations arising from a previous decision on admission as a seasonal worker.

(6) Without prejudice to the provisions of sub-regulation (1), any decision to reject an application shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and shall respect the principle of proportionality.

(7) Grounds for refusing the issuing of a short-stay visa are regulated in the relevant provisions of the Visa Code.

Withdrawal of
authorisation for
the purpose of
seasonal work.

8. (1) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall withdraw the authorisation for the purpose of seasonal work where:

- (a) the documents presented for the purpose of regulations 4 or 5 were fraudulently acquired, or falsified, or tampered with; or
- (b) the holder is staying for purposes other than those for which he was authorised to stay.

(2) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall, if appropriate, withdraw the authorisation for the purpose of seasonal work where:

- (a) the employer has been sanctioned for undeclared work and, or illegal employment;
- (b) the employer's business is being or has been wound up in accordance with the relevant provisions of the Companies Act and the Commercial Code or no economic activity is taking place;
- (c) the employer has been sanctioned under regulation 16.

Cap. 386.
Cap. 13.

(3) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, may withdraw the authorisation for the purpose of seasonal work where:

- (a) the provisions of regulations 4 or 5 are not or are no longer complied with; or
- (b) the employer has failed to meet legal obligations regarding social security, taxation, labour rights, working conditions or terms of employment as provided for in applicable law and, or collective agreements; or
- (c) the employer has not fulfilled its obligations under the contract of employment; or
- (d) within twelve months immediately preceding the date

of the application, the employer has abolished a full-time position in order to create the vacancy that the employer is trying to fill by the use of these regulations.

(4) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, may withdraw the authorisation for the purpose of seasonal work if the third country national applies for international protection under the Refugees Act or for protection in accordance with national law, international obligations or national policies. Cap. 420.

(5) Without prejudice to the provisions of sub-regulation (1), any decision to withdraw the authorisation shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and shall respect the principle of proportionality.

(6) Grounds for annulment or revocation of a short-stay visa are regulated in the relevant provisions of the Visa Code.

9. The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall require the employer to provide all relevant information needed for issuing, extending or renewing the authorisation needed for issuing, extending or renewing the authorisation for the purpose of seasonal work. Obligation of cooperation.

PART III

Procedure and Authorisations for the Purpose of Seasonal Work

10. (1) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall make easily accessible to applicants the information on all documentary evidence needed for an application and information on entry and stay, including the rights and obligations and the procedural safeguards of the seasonal worker. Access to information.

(2) When issuing third country nationals with the authorisation for the purpose of seasonal work, the Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, shall also provide information in writing about the rights and obligations of seasonal workers, including complaint procedures.

11. (1) With regards to stays not exceeding ninety days, third-country nationals who comply with regulation 4 and do not fall within the grounds set out in regulation 7, without prejudice to the rules on the issuing of short-stay visas as laid down in the Visa Code and in Regulation EC No 1683/95, shall be issued with: Authorisations for the purpose of seasonal work.

- (a) a short stay visa and an employment licence indicating that they are issued for the purpose of seasonal work; or
- (b) in the case of a third country national exempted from a visa requirement as provided for in accordance with Annex II of Regulation EC No 539/2001, with an employment licence issued for the purpose of seasonal

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work.

(2) For stays exceeding ninety days, a third country national who complies with regulation 5 and does not fall within the grounds set out in regulation 7, shall be issued with a seasonal worker permit and a long stay visa:

Provided that facilitation shall be given in relation to the issuance of such visa if such visa is required for entering Malta.

(3) The Executive Chairperson shall issue the seasonal worker permit using the format laid down in Regulation EC No 1030/2002.

(4) In the case of long stay visas a reference shall be entered stating that it is issued for the purpose of seasonal work under the heading 'remarks' on the visa sticker in accordance with point 12 of the Annex to Regulation EC No 1683/95.

(5) In the case of a seasonal worker permit, the Executive Chairperson may indicate additional information relating to the employment relationship of the seasonal worker in paper format, or store such data in electronic format as referred to in Article 4 of Regulation EC No 1030/2002 and in point 16(a) of the Annex thereto.

Applications for a seasonal worker permit.

12. An application for a seasonal worker permit shall be submitted to the Executive Chairperson in a single application procedure by the third country national and endorsed by the employer.

Duration of stay.

13. The maximum period of stay for seasonal workers shall be not more than nine months in any twelve month period. After the expiry of this period, the third country national shall leave the territory of Malta:

Provided that no residence permit has been issued in accordance with national law for purposes other than seasonal work.

Extension of stay or renewal of the authorisation for the purposes of seasonal work.

14. (1) Within the maximum period referred to in regulation 13 and provided that the provisions of regulations 4 or 5 are complied with and the grounds set out in regulation 7(1)(b), regulation 7(2) and, if applicable, regulation 7(5) are not met, seasonal workers are allowed one extension of their stay in relation to their contract with the same employer.

(2) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, in consultation with the pertinent authorities responsible for labour matters, may decide to allow seasonal workers to extend their contract with the same employer and their stay more than once, provided that the maximum period referred to in regulation 13 is not exceeded.

(3) Within the maximum period referred to in regulation 13 and provided that the provisions of regulation 4 or 5 are complied with and the grounds set out in regulation 7(1)(b), regulation 7(2) and, if applicable, regulation 7(5) are not met, the Executive Chairperson

or the authorities responsible for the issue of work permits, as the case may be, in consultation with the pertinent authorities responsible for labour matters, may decide to allow seasonal workers one extension of their stay to be employed with a different employer.

(4) The Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, in consultation with the pertinent authorities responsible for labour matters, may decide to allow seasonal workers to be employed by a different employer and to extend their stay more than once, provided that the maximum period referred to in regulation 13 is not exceeded.

(5) For the purposes of sub-regulations (1), (2), (3) and (4), the Executive Chairperson or the authorities responsible for the issue of work permits, as the case may be, in consultation with the pertinent authorities responsible for labour matters, shall accept the submission of an application when the seasonal worker admitted under these regulations is on the territory of Malta.

(6) (a) The Executive Chairperson or the authorities responsible for issuing the work permit, as the case may be, in consultation with the pertinent authorities responsible for labour matters, shall refuse to extend the stay or renew the authorisation for the purpose of seasonal work when the vacancy in question could be filled by Maltese nationals or by other European Union citizens, or by third-country nationals lawfully residing in Malta.

(b) The provisions of this sub-regulation shall apply without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the relevant Acts of Accession.

(7) The Executive Chairperson or the authorities responsible for issuing the work permit, as the case may be, in consultation with the pertinent authorities responsible for labour matters, shall refuse to extend the stay or renew the authorisation for the purpose of seasonal work where the maximum duration of stay as defined in regulation 13 has been reached.

(8) The Executive Chairperson or the authorities responsible for issuing the work permit, as the case may be, in consultation with the pertinent authorities responsible for labour matters, may decide to extend the stay or renew the authorisation for the purpose of seasonal work if the third-country national applies for international protection under the legislation on standards for qualification of beneficiaries of international protection or the Refugees Act or if the third-country national applies for protection in accordance with the Refugees Act or international obligations.

Cap. 420.

(9) The provisions of regulation 8(2), (3)(b), (3)(c) and (3)(d) shall not apply to a seasonal worker who applies to be employed by a different employer in accordance with sub-regulation (3) when those provisions apply to the previous employer.

(10) Grounds for extension of a short-stay visa are regulated in

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the relevant provisions of the Visa Code.

(11) Without prejudice to regulation 7(1), any decision on an application for an extension or renewal shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and shall respect the principle of proportionality.

Facilitation of re-entry.

15. (1) Third-country nationals who were admitted to Malta as seasonal workers at least once within the previous five years, and who fully respected the conditions applicable to seasonal workers under these regulations during each of their stays, shall have facilitated re-entry.

(2) The facilitation referred to in sub-regulation (1) may include one or more measures such as:

- (a) the grant of an exemption from the requirement to submit one or more of the documents referred to in regulations 4 or 5;
- (b) an accelerated procedure leading to a decision on the application for a seasonal worker permit or a long stay visa;
- (c) priority in examining applications for admission as a seasonal worker, including taking into account previous admissions when deciding on applications with regard to the exhaustion of volumes of admission.

Sanctions against employers.

16. (1) An employer who fails to comply with the conditions set out in these regulations and, or fails to prevent possible abuses shall be guilty of an offence against these regulations and shall on conviction be liable to a fine (*multa*) not exceeding five thousand euro (€5,000).

(2) The Executive Chairperson or the authorities responsible for issuing the work permit, as the case may be, shall ensure that, if the authorisation for the purpose of seasonal work is withdrawn pursuant to regulation 8(2), (3)(b), (3)(c) and (3)(d), the employer shall be liable to pay compensation to the seasonal worker in accordance with procedures under national law. Any liability shall cover any outstanding obligations which the employer would have to respect if the authorisation for the purpose of seasonal work had not been withdrawn.

Procedural safeguards.

17. (1) The Executive Chairperson or the authorities responsible for issuing the work permit, as the case may be, shall adopt a decision on the application for authorisation for the purpose of seasonal work. They shall notify the decision to the applicant in writing as soon as possible but not later than ninety days from the date on which the complete application was submitted.

- (2) (a) In the case of an application for an extension to stay or for the renewal of the authorisation pursuant to regulation 14, they shall take all reasonable steps to ensure that the seasonal worker is not obliged to interrupt his or her employment relationship with the

same employer, or prevented from changing employer, due to ongoing administrative procedures:

Provided that where the validity of the authorisation for the purpose of seasonal work expires during the procedure for extension or renewal, in accordance with these regulations, the seasonal worker shall be allowed to stay in Malta until a decision has been taken on the application, provided that the application was submitted within the period of validity of that authorisation and that the time period referred to in regulation 13 has not expired.

- (b) The third country national concerned may be issued with a national temporary authorisation until a decision is taken, which may allow the seasonal worker to work until that decision is taken.
- (c) During the period of examination of the application for extension or renewal, the relevant provisions of these regulations shall apply.

(3) Where the information or documentation supplied in support of the application is incomplete, the competent authorities shall notify the applicant, within a reasonable period of time, of the additional information that is required and set a reasonable deadline for providing it. The period referred to in sub-regulation (1) shall be suspended until the additional information has been submitted.

- (4) (a) Reasons for a decision declaring inadmissible an application for authorisation for the purpose of seasonal work or rejecting an application for authorisation for the purpose of seasonal work or refusing an extension of stay or renewal of the authorisation for the purpose of seasonal work shall be given in writing to the applicant. Reasons for a decision withdrawing the authorisation for the purpose of seasonal work shall be given in writing to both the seasonal worker and the employer.

- (b) The relative written notification shall also specify information regarding the appeal procedure to such a decision that the third country national may lodge with the Immigration Appeals Board in accordance with the time limit established in the Act.

(5) Procedural safeguards concerning short stay visas are regulated in the relevant provisions of the Visa Code.

18. (1) The Executive Chairperson or the authorities responsible for issuing the work permit, as the case may be, shall require evidence that the seasonal worker will benefit from accommodation that ensures an adequate standard of living and that any change of accommodation shall be reported accordingly.

Accommodation.

(2) Where accommodation is arranged by or through the employer:

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- (a) the seasonal worker may be required to pay a rent which shall not be excessive compared with his net remuneration and compared with the quality of the accommodation. The rent shall not be automatically deducted from the wage of the seasonal worker;
- (b) the employer shall provide the seasonal worker with a rental contract or equivalent document in which the rental conditions of the accommodation are clearly stated;
- (c) the employer shall ensure that the accommodation meets the general health and safety standards in accordance with national law.

PART IV
Rights

Rights on the basis of the authorisation for the purpose of seasonal work.

19. During the period of validity of the authorisation referred to in regulation 11, the holder shall enjoy at least the following rights:

- (a) the right to enter and stay in the territory of Malta;
- (b) free access to the entire territory of Malta;
- (c) the right to exercise the concrete employment activity authorised under these regulations.

Right to equal treatment.

20. (1) Seasonal workers shall be entitled to equal treatment with Maltese nationals at least with regard to:

- (a) terms of employment, including the minimum working age, and working conditions, including pay and dismissal, working hours, leave and holidays, as well as health and safety requirements at the workplace;
- (b) the right to strike and take industrial action, in accordance with the Employment and Industrial Relations Act, and freedom of association and affiliation and membership of an organisation representing workers or of any organisation whose members are engaged in a specific occupation, including the rights and benefits conferred by such organisations, including the right to negotiate and conclude collective agreements, without prejudice to the national provisions on public policy and public security;
- (c) back payments to be made by the employers, concerning any outstanding remuneration to the third-country national;
- (d) branches of social security, as defined in Article 3 of Regulation (EC) No 883/2004:

Cap. 352.

Provided that family benefits and unemployment benefits are excluded, without prejudice to the rights conferred by Regulation (EU) No 1231/2010;

- (e) access to goods and services and the supply of goods and services made available to the public, except housing, without prejudice to the freedom of contract in accordance with Union and national law;
- (f) advice services on seasonal work afforded for the purposes of long term employment by Jobsplus;
- (g) education and vocational training:
Provided that the application to education and vocational training shall be directly linked to the specific employment activity and excluding study and maintenance grants and loans or other grants and loans;
- (h) recognition of diplomas, certificates and other professional qualifications in accordance with the Conditions of Entry and Residence of Third-Country Nationals for the purpose of Highly Qualified Employment Regulations;
- (i) tax benefits, in so far as the seasonal worker is deemed to be resident for tax purposes in Malta:

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Provided that tax benefits shall be limited to cases where the registered or usual place of residence of the family members of the seasonal worker, for whom he claims benefits, lies in the territory of Malta:

Provided that seasonal workers moving to a third country, or their survivors who reside in a third-country and who derive rights from those workers shall receive, in relation to old age, invalidity, death and statutory pensions based on the seasonal worker's previous employment and acquired in accordance with the Social Security Act under the same conditions and at the same rates as the nationals of Malta when they move to a third country.

Cap. 318.

(2) The right to equal treatment provided for in sub-regulation (1) shall be without prejudice to the right of the Executive Chairperson or the authorities responsible for issuing the work permit, as the case may be, to withdraw or to refuse to extend or renew the authorisation for the purpose of seasonal work in accordance with regulations 8 and 14.

21. (1) The pertinent authorities responsible for the prevention of possible abuses and the sanction for infringements of these regulations and as provided for under national legislation shall provide for measures to prevent such possible abuses and to sanction infringements.

Monitoring,
assessment and
inspections.

(2) The pertinent authorities in charge of inspection of labour or other competent authorities shall have access to the workplace and, with the agreement of the worker, to the accommodation.

22. (1) It shall be ensured by the pertinent authorities that there are effective mechanisms through which seasonal workers may lodge complaints against their employers directly or through third parties which have, in accordance with the criteria laid down

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in national law, a legitimate interest in ensuring compliance with these regulations.

(2) It shall be ensured by the pertinent authorities that third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with these regulations, may engage either on behalf of or in support of a seasonal worker, with his or her approval, in any administrative or civil proceedings, excluding the procedures and decisions concerning short-stay visas.

(3) It shall be ensured by the pertinent authorities that seasonal workers have the same access as other workers in a similar position to measures protecting against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with these regulations.
