
Employer's questionnaire when employees are being sent to work in another EU country

Certificates of continuing Maltese liability (forms A1) can only be issued under the terms of Article 12 of EC Regulation 883/2004 provided that the conditions set out in Article 14 of EC Regulation 987/2009 are met.

Employees must remain **directly employed** by the employer who sends them abroad. This direct relationship means that the employer must be responsible for the recruitment, contract of employment, and termination of employment, in addition to having authority to determine the nature of the work performed.

In addition, in the case of employers who recruit staff for immediate posting to another Member State, the employer must **habitually carry out significant activities** in the territory of the home Member State.

To establish whether an employer "habitually carries out significant activities in the territory of the home Member State" it is necessary to look at the following criteria:

- The place where the company has its registered office and administration
- The number of administrative staff in the posting State
- The length of time an undertaking is established in the posting state
- The place where the posted workers are recruited and the place where the majority of contracts with clients are concluded
- The law applicable to the contracts concluded by the posting undertaking with its workers, on the one hand, and its clients on the other
- The activities carried out by the posting undertaking in the Member State where it is established.

The conditions set out in Article 14 of EC Regulation 987/2009 will not be satisfied where:

- The company which posts the workers is engaged only in internal management (i.e. “office”) activities in the home Member State.
- The latest posting follows a brief interruption during a worker’s posting abroad. (A posting will be considered as a new posting if there is at least a two month interval between postings if the worker is being re-posted by the same Maltese employer to the same undertaking in the same country).
- The company to which the worker has been posted sends that person to work for another employer in the same or different Member State.
- The worker is recruited in one Member State in order to be sent to a third Member State.
- The worker is being posted to replace another posted worker.

In order to establish whether your company satisfies all of the above criteria, and therefore that A 1(s) can be issued, please answer fully all the questions in the attached Annex.

DECLARATION: Data Protection Act

The Department of Social Security collects all relevant personal information to provide its services to individuals who qualify for assistance, allowances or non-contributory pensions in accordance with article 133 (b) of the Social Security Act (Cap 318). The Department may verify the information submitted by you to ensure its accuracy in relation to your claim. The employees within this Department will access this information to process your claim. You will be informed in due course of the result of your claim after it has been assessed.

The Department of Social Security treats your personal information in accordance with the Data Protection Act 2001 (Cap 440) to protect your privacy. You may request in writing to access information held about you, and eventually to rectify, and where applicable to erase, incorrect information, having regard to the claim for which you applied. Such request is to be addressed to: “The Data Controller” at the above mentioned address and appropriate action would be taken at the earliest possible time. In such requests, kindly quote your identity card number, national insurance number, your name and address and other relevant documentation to identify your case.

Details required

1. Company's Name

2. Company's contact details in Malta

3. How long has your company been operating its present business?

4. What is the nature of your company's business both in Malta and abroad?

5. Why does your company send people abroad? Are they:

- Sent to work in continuation of their Maltese employment with your company? Yes No
- Specifically recruited to work on contracts awarded to your company? Yes No
- Specifically recruited for hire to client firms? Yes No

6. Were all the workers being sent abroad recruited in Malta? Yes No

In **No** please give details _____

7. Were all the contracts with clients concluded in Malta? Yes No

If **No** please give details _____

8. How many administrative (i.e. "office") staff does your company employ?

(a) in Malta? _____

(b) abroad? _____

9. How many people apart from the administrative staff does your company employ?

(a) in Malta? _____

(b) abroad? _____

10. Is your company an employment agency? Yes No

11. What is your company's tax number? _____

12. Are all wages and social security records kept in Malta? Yes No

13. Please give details of all work carried out in Malta by your company during the 12 months prior to posting employees to _____

14. If your company has not carried out any work in Malta during the past 12 months please give details of your plans for future work in Malta

15. Please give details of any work carried out by your company outside of Malta during the 12 months prior to posting employees to _____

Declaration by employer

I declare that the information given on this form is correct.

Signature _____

Name _____

Date _____

Position in company _____

Contact details _____
