

ALIENS AND IMMIGRATION AMENDING LAW

For purposes of, amongst others-

O.J. L 16,
23.1.2004
p.44

(a) rewording of paragraph (c) of subparagraph (2) of article 18G of the basic law which transfers to the Cypriot law the Article 3, paragraph 2, subparagraph e) of the act of the European Community with the title “Council Directive 2003/109/EC of 25 November 2003 regarding the status of third-country nationals who are long-term residents.”

b) exercising of discretionary power provided by Article 5, paragraph 2, of the above-mentioned Directive 2003/109/EC to the member states of the European Community

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03.10.2003
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c) exercising of discretionary power provided by Article 3, paragraph 5, of the act of European Community with the title “Council Directive 2003/86/EC of 22 September 2003 regarding the right of family reunification” to the member states of the European Community.

The House of Representatives votes as followed:

Concise Title	1. The present Law shall be referred to as the Aliens and Migration (Amending) (No.2) Law of 2009 and shall be read with the Aliens and Migration (which will be referred to as the “basic law” henceforward).
Ch.105	
2 of 1972	
54 of 1976	
50 of 1988	
197 of 1989	
100(I) of 1996	
43(I) of 1997	
14(I) of 1998	
22(I) of 2001	
164(I) of 2001	
88(I) of 2002	
220(I) of 2002	
66(I) of 2003	
178(I) of 2004	
8(I) of 2007	
184(I) of 2007	
29(I) of 2009	
Amendment of article 18G of the basic law.	2. Paragraph (c) of subparagraph (2) of the article 18G of the basic law is amended by deleting the phrase “as regards its time duration” (sixth line)
Amendment of article 18I of the basic law.	3. Article 18I of the basic law is amended as followed: (a) By addition right after the paragraph (a), the following new paragraph (a1): “(a1) To have adequate knowledge of the Greek language of level A2, as it is defined by the Common European Framework of Reference for Languages of the Council of Europe and the fundamentals about the contemporary political and social reality in Cyprus” and

- a. By renumbering of its existing text to subparagraph (1) and by adding, right after, the following new subparagraph (2):

“(2) The Immigration Control Committee may exclude an applicant from the requirements mentioned in paragraph (a1) of subparagraph (1), in case this applicant is working in a company for the purposes of the Company Law, which is approved to employ immigrant staff. In such a case, the applicant should fulfill the requirements of the phase of renewal of the residence permit of the long-term resident”.

Ch. 113

9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
46 (l) of 1992
96 (l) of 1992
41(l) of 1994
15 (l) of 1995
21 (l) of 1997
82 (l) of 1999
149 (l) of 1999
2 (l) of 2000
135 (l) of 2000
151 (l) of 2000
76 (l) of 2001
70 (l) of 2003
167 (l) of 2003
92 (l) of 2004
24 (l) of 2005
129 (l) of 2005
130 (l) of 2005
98 (l) of 2006
124 (l) of 2006
70 (l) of 2007
71 (l) of 2007
131(l) of 2007
186 (l) of 2007
87 (l) of 2008
41 (l) of 2009
49 (l) of 2009
99 (l) of 2009

4. The subparagraph (2) of article 18J of the basic law is amended by adding, right after its paragraph (jb) the following new paragraph (jc):

Amendment of
article 18J of the
basic law.

“(jc) Certificate issued by the Ministry of Education and Culture, after an oral examination, indicating that the applicant is fulfilling the requirement mentioned in paragraph (a1) of article 18I, or any other equal certificate accepted by the Ministry of Education and Culture. The participation to the examination is permitted only after submitting an application form to the Examination Services of the Ministry of Education and Culture and paying the amount of €25 as fees”.

Amendment of
article 18LA of
the basic law.

5. Article 18LA of the basic law is amended as followed:

(a) By replacement of the full stop at the end of its subparagraph (1) with a semi-colon and with addition right after of the following new reservation:

“It is evident that the Director has the discretionary power to accept an application for family reunification when the members of the family reside in the Republic of Cyprus, in case the supporter is employed by a company for the purposes of the Company Law, which is approved to employ immigrant staff” and

(b) By addition right after its subparagraph (5) the following new subparagraph (5A):

“(5A) Independently from the provisions of subparagraph (5), in the case that the decision of the Director is related to the exercise of his discretionary power according to the reservation of subparagraph (1) of article 18 LA or the reservation of paragraph (a) of the article 18LB, the decision in question is notified in written to the supporter as soon as possible and in any way not later than five months after the application submission and in the case of refusal, this must be duly justified”.

Amendment of article 18LB of the basic law.

6. The paragraph (a) of the article 18LB of the basic law is amended by replacing the full stop at its end with a semi colon and by adding, right after, the following new reservation:

“It is evident that the Director has the discretionary power not to require previous residence of at least two years, in case the supporter is working in a company, for the purposes of the Company Law, which is approved to employ immigrant staff”

New article in the basic law

7. The basic law is amended by adding right after the article 18LG, the new following article 18LG bis:

“Hierarchical appeal”

18LG bis-(1) Every Director’s refusal, related to the discretionary power according to the reservation of subparagraph (1) of article 18 LA or the reservation of paragraph (a) of the article 18LB, is subject to hierarchical appeal against the Minister of Interior, which is lodged in written within twenty days from the date of the refusal notification to the applicant and the reasons should be mentioned in it as well.

(2) Every Director’s decision, which refers to subparagraph (1)-

(a) is implemented when the deadline for lodging an hierarchical appeal against the Minister of Interior expires, in virtue of subparagraph (1)

(b) is not implemented when an hierarchical appeal is lodged against the Minister of Interior in due time, in virtue of subparagraph (1)

(3) In the case of lodging an hierarchical appeal in virtue of subparagraph (1), the Minister of Interior after asking from the plaintiff to submit in written the reasons and the facts which support his appeal, examines it and may, in the case he considers it necessary, hear him orally before issuing his decision.



(4) The Minister has the power to assign one or more of his officers to examine the issues related to the above-mentioned hierarchical appeal and ask them to submit to him the conclusions of this examination, before issuing his decision about the hierarchical appeal.

(5) The Minister of Interior issues and forwards in written his decision to the plaintiff, in which he accepts or refuses the hierarchical appeal and cancels or approves respectively the Director's appealed decision, within sixty days from the lodging of the hierarchical appeal.

Amendment of article 18MA of the basic law.

8. The subparagraph (1) of the article 18MA of the basic law is amended by replacing in it the word "18NG" (first line) by the word "18NF".

Amendment of article 19 of the basic law.

9. The article 19 of the basic law is amended by adding right after the subparagraph (4), this following new subparagraph (5):

“(5) The owner or/and responsible or/and occupant of a dwelling or/and other manor situated in the areas controlled by the government of the Republic, who gives his consent to be resided his dwelling or/and manor in question, gainfully or/and with a lease, by any third-country national who resides illegally in the Republic, commits a criminal offense and in the case of penalty, this may be the penalty of imprisonment for not more than eighteen months or pecuniary penalty not exceeding the amount of four hundred euros or/and both of these penalties

It is evident that, in relation to the awareness or/and the intention of that owner or/and responsible or/and occupant of a dwelling or/and other manor to dispose his dwelling or/and manor to a third-country national who is residing illegally in the Republic, it is considered as refutable evidence the fact that this person in question takes all the reasonable and necessary actions to ascertain that the third-country national resides legally in the Republic, before providing him residence.

Further, it is evident that for agreements or contracts signed before the date of the Aliens and Migration (Amending) (No 2) Law of 2009 entered into force, for providing residence to third-country national gainfully or/and with a lease, including the cases of renewal before the date in question, the provisions of the present subparagraph are entering into force twelve (12) months after the date the Aliens and Migration (Amending) (No 2) Law of 2009 enters into force.

Amendment of
Appendix II of
the basic law.

10. The Appendix II of the basic law is amended as follows:

(a) By addition to Part VI, right after paragraph (4), of the following new paragraph (5):

“(5) Accession requirements

Please submit a Certificate issued by the Ministry of Education and Culture of adequate knowledge of the Greek language of level A2, as it is defined by the Common European Framework of Reference for Languages of the Council of Europe and the fundamentals about the contemporary political and social reality in Cyprus” and

(b) By addition to paragraph 1 of the Guidance to Complete the Application, right after the subparagraph (d) the following new subparagraph (e):

“(e) Certificate issued by the Ministry of Education and Culture of adequate knowledge of the Greek language of level A2, as it is defined by the Common European Framework of Reference for Languages of the Council of Europe and the fundamentals about the contemporary political and social reality in Cyprus (in the case that the applicant is working in a company for the purposes of the Company Law, which is approved to employ immigrant staff, the certificate in question is submitted only during the phase of renewal of the residence permit of a long-term resident, after the approval of the Immigration Control Committee)”.

Entry into force
of the present
law

11.-(1) Without prejudice to the provisions of the subparagraph (2), the present law enters into force on the date of its publication in the Official Journal of the Republic.

(2) Articles 3, 4 and 10 of the present Law shall enter into force six months after the date of publication of the present law in the Official Journal of the Republic.